

2/14/23 Preservation Hearing Transcript

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

BROWN, ET AL,) CV-20-3664-YGR
) CV-20-5146-YGR
PLAINTIFF,)
) SAN JOSE, CALIFORNIA
VS.)
) FEBRUARY 14, 2023
GOOGLE LLC, ET AL,)
) PAGES 1-62
DEFENDANT.)
)
)

SEALED TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE SUSAN VAN KEULEN
UNITED STATES MAGISTRATE JUDGE

A P P E A R A N C E S

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BROWN ET AL

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APPEARANCES CONTINUED ON THE NEXT PAGE

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PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY
TRANSCRIPT PRODUCED WITH COMPUTER

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ALSO PRESENT:

TONI BAKER
IN-HOUSE COUNSEL AT GOOGLE

1 SAN JOSE, CALIFORNIA

FEBRUARY 14, 2023

2 P R O C E E D I N G S

3 (WHEREUPON, THE FOLLOWING RECORD IS SEALED.)

4 THE COURT: GOOD AFTERNOON, EVERYONE. WELCOME TO OUR
5 SPECIALLY SET HEARING.

6 AND MS. FANTHORPE, THE WEBINAR IS LOCKED?

7 THE CLERK: IT IS.

8 THE COURT: OKAY. PURSUANT TO A REQUEST OF THE
9 PARTIES, WHICH THE COURT GRANTED, THESE PROCEEDINGS ARE SEALED.

10 OKAY. WE ARE ON TODAY IN BOTH THE BROWN AND CALHOUN
11 MATTERS FOR -- TO FURTHER ADDRESS GOOGLE'S REQUEST THAT IT NOT
12 BE REQUIRED TO PRESERVE [REDACTED] TABLES AND [REDACTED]
13 [REDACTED] TABLES.

14 AND I KNOW THE ISSUES ARE -- THERE ARE OVERLAP AND THERE
15 ARE SOME DISTINCT ISSUES. I THINK WE WILL PROCEED JOINTLY, AND
16 THEN IF WE NEED TO STEP BACK AND TAKE EITHER BROWN OR CALHOUN
17 AT A TIME, WE WILL DO THAT.

18 SO WITH THAT IN MIND, LET'S GO AHEAD AND GET APPEARANCES,
19 AND WE WILL GO AHEAD AND GET THEM ALL, AND THEN WE WILL GET
20 UNDER WAY.

21 MS. FANTHORPE.

22 THE CLERK: CALLING CASE 20-CV-3664. BROWN, ET AL.
23 VERSUS GOOGLE LLC, ET AL., AND CASE 20-CV-5146. CALHOUN,
24 ET AL. VERSUS GOOGLE, LLC.

25 COUNSEL, PLEASE IDENTIFY YOURSELVES FOR THE RECORD

1 BEGINNING WITH PLAINTIFF BROWN, THEN CALHOUN, THEN GOOGLE.

2 IS THAT IN ORDER?

3 THE COURT: THAT WILL DO IT. THANK YOU.

4 MR. MCGEE: GOOD AFTERNOON, YOUR HONOR.

5 RYAN MCGEE OF MORGAN AND MORGAN. AND I'M JOINED BY MY
6 COLLEAGUES, JOHN YANCHUNIS, ALSO OF MORGAN AND MORGAN, AND
7 MARK MAO OF BOIES SCHILLER. AND I THINK WE WOULD ALL JOIN IN
8 THANKING YOUR HONOR FOR ACCOMMODATING THE HEARING TO BE MOVED
9 TO 2:00 P.M. THIS AFTERNOON, SO THANK YOU.

10 THE COURT: YOU'RE WELCOME.

11 MR. BARNES: SORRY, YOU THINK I WOULD HAVE FIGURED
12 THIS MUTE BUTTON OUT BY NOW.

13 GOOD AFTERNOON, YOUR HONOR. JAY BARNES FROM SIMMONS HANLY
14 CONROY, ON BEHALF OF THE CALHOUN PLAINTIFFS.

15 I'M JOINED BY MY COLLEAGUES, ANNE DAVIS OF BLEICHMAR,
16 FONTI AND AULD, AND DAVID STRAITE FROM DICELLO LEVITT, AND
17 SHARON CRUZ FROM DICELLO LEVITT.

18 THE COURT: GOOD AFTERNOON, EVERYONE.

19 THAT BRINGS US TO GOOGLE. MS. TREBICKA, I'M NOT HEARING
20 YOU. YOU DON'T SHOW AS BEING MUTED, BUT I DON'T -- THERE YOU
21 ARE.

22 MR. SCHAPIRO: CAN YOU HEAR ME?

23 THE COURT: MR. SCHAPIRO, YOU ARE ECHOING.

24 MR. SCHAPIRO: THERE WE GO. CAN YOU HEAR ME?

25 THE COURT: I CAN HEAR YOU.

1 MR. SCHAPIRO: YEAH, THE PROBLEMS ARE BEING IN THE
2 SAME CONFERENCE ROOM.

3 ALL RIGHT. WELL, I'M ANDREW SCHAPIRO FROM QUINN EMANUEL
4 FOR GOOGLE, JOINED BY MY COLLEAGUES, VIOLA TREBICKA, STEPHEN
5 BROOME, JOSEF ANSORGE, AND TRACY GAO, AND WE ALSO HAVE IN-HOUSE
6 COUNSEL FROM GOOGLE, TONI BAKER WITH US.

7 THE COURT: ALL RIGHT. THANK YOU.

8 ALL RIGHT. I HAVE BEEN THROUGH THE PAPERS, AND IF I REFER
9 TO DOCKET NUMBERS, I'M REFERRING TO THEM IN THE BROWN CASE,
10 BECAUSE THOSE ARE THE NUMBERS I HAD AT HAND.

11 OBVIOUSLY, I WENT THROUGH THE PARTIES' -- THE JOINT
12 STATEMENT AT 848-3, WHICH FOLLOWED OUR PREVIOUS HEARING ON THIS
13 SUBJECT, AND MY ORDER THAT THE PARTIES MEET AND CONFER, AND
14 THAT ORDER IS SET FORTH AT DOCKET 830.

15 THE PARTIES DID MEET AND CONFER, AND I HAD AN OPPORTUNITY
16 TO REVIEW THE VIDEO AND THE TRANSCRIPT OF THOSE PROCEEDINGS,
17 WHICH WAS VERY HELPFUL, SO THANK YOU FOR PROVIDING THAT.

18 I ALSO SAW THAT THE PARTIES FOLLOWED UP WITH A SERIES OF
19 MEET AND CONFER LETTERS THAT WERE FILED WITH THE JOINT
20 STATEMENT, AND I HAVE REVIEWED THOSE AS WELL, AS WELL AS
21 PREVIOUS FILED DECLARATIONS BY GOOGLE IN SUPPORT OF ITS REQUEST
22 REGARDING THE [REDACTED] AND [REDACTED] TABLES.

23 IN MY PREVIOUS ORDER, I DIRECTED GOOGLE TO DEMONSTRATE TO
24 THE PLAINTIFFS THAT THE DATA IN THE [REDACTED] [REDACTED] TABLES
25 AND THE [REDACTED] [REDACTED] TABLES AT ISSUE, THAT THE DATA IS EITHER

1 Duplicated in the preserved tables, currently set of tables
2 that are being preserved, or can be derived from those tables.
3 And I took pains to caution both sides not to treat this
4 opportunity or this meet and confer as either a threat or an
5 opportunity to open Pandora's box.

6 I thought that the, as I say, the meet and confer process
7 was informative. I certainly understand there are additional
8 questions, as the plaintiffs pose them in that session, and
9 also raised in the joint statement. I understand Google's
10 position is, we've fulfilled our obligation and we are ready
11 for a decision.

12 So I would like to hear a little more from each side as
13 to -- first from Google, as to how the task has been satisfied,
14 and we will go from there.

15 MS. TREBICKA: YOUR HONOR CAN YOU HEAR ME?

16 THE COURT: I CAN HEAR YOU FINE NOW, THANK YOU.

17 MS. TREBICKA: I APOLOGIZE, YOUR HONOR, BUT HOPEFULLY
18 THIS WILL WORK.

19 THE COURT: OKAY.

20 MS. TREBICKA: OKAY. THANK YOU FOR THIS OPPORTUNITY.

21 WE UNDERSTOOD YOUR HONOR LOUD AND CLEAR, YOU WANTED US TO
22 DEMONSTRATE, IN SORT OF SIMPLE BLOCKS OR SIMPLE TERMS, HOW --
23 WHY IT IS THAT THE DATA THAT IS FOUND, THE MAPPING AND LINKING
24 DATA THAT IS FOUND IN THE MAPPING AND LINKING TABLES IN
25 [REDACTED] AND THE [REDACTED] TABLES, IS EITHER IN

1 [REDACTED] CASE, ABLE TO BE DERIVED FROM CERTAIN TABLES
2 THAT WE ARE PRESERVING, OR IN THE [REDACTED] CASE, ACTUALLY
3 FOUND IN THE DATA THAT WE ARE PRESERVING.

4 WHAT WE DID IS WE PUT TOGETHER SOME VERY DETAILED LETTERS
5 THAT CONTAINED SCREEN SHOTS, NOT ONLY OF THE DATA, OF SAMPLES
6 OF DATA, TO DEMONSTRATE WHAT OUR ARGUMENT IS, BUT ALSO CERTAIN
7 SOURCE CODE TO SHOW WHERE SOME OF THE DATA IS COMING FROM, THE
8 RELEVANT DATA FOR THE MAPPING AND LINKING.

9 AND THAT'S WHAT WE HAVE PUT TOGETHER IN THE THREE LETTERS
10 THAT WE'VE SENT. WE SENT THE LETTER BEFORE THE MEET AND
11 CONFER. AT THE MEET AND CONFER, YOUR HONOR COULD SEE WE WALKED
12 THROUGH THOSE LETTERS TO BE ABLE TO MORE CLEARLY STATE WHAT
13 THIS DEMONSTRATION ENTAILS, AND ALSO ANSWER THE QUESTIONS THAT
14 WE WERE ABLE TO ANSWER AT THE TIME.

15 WE FOLLOWED UP WITH ADDITIONAL LETTERS ANSWERING
16 ADDITIONAL QUESTIONS THAT WERE FORMED AND PRESENTED TO US
17 DURING THAT LONG MEET AND CONFER, EVEN WHEN SOME OF THE
18 QUESTIONS REALLY, FROM OUR PERSPECTIVE, WENT BEYOND WHAT
19 YOUR HONOR HAD ASKED US TO DO, WHICH IS DEMONSTRATE -- AGAIN,
20 DEMONSTRATE THAT THESE PARTICULAR MAPPING AND LINKING TABLES
21 ARE NOT NECESSARY TO BE PRESERVED TO BE ABLE TO READ THE DATA
22 AT ISSUE.

23 SO WITH THAT, YES, YOUR HONOR, YOU ARE RIGHT, WE BELIEVE
24 THAT OUR JOB IS DONE. WE HAVE DEMONSTRATED THAT IT WOULD BE
25 ENTIRELY DISPROPORTIONAL TO THE NEEDS OF EACH CASE TO PRESERVE

1 THESE MAPPING TABLES, ESPECIALLY GIVEN THE EXORBITANT COST THAT
2 IS ASSOCIATED WITH PRESERVING THEM.

3 I WILL REST THERE. IF THERE ARE ANY MORE SPECIFIC
4 QUESTIONS ABOUT EACH OF THE TABLES, I KNOW THEY ARE SLIGHTLY
5 DIFFERENTLY SITUATED, AND ALSO THERE'S DIFFERENT ARGUMENTS WITH
6 RESPECT TO EACH CASE, BUT I WILL STOP THERE IN CASE YOUR HONOR
7 HAS ANY QUESTIONS.

8 THE COURT: ALL RIGHT. THANK YOU, MS. TREBICKA.

9 LET'S GO TO -- IT CERTAINLY APPEARS FROM THE JOINT
10 STATEMENT, TO BE THE HEART OF THE MATTER, WHICH IS THE [REDACTED]
11 IN THE [REDACTED] TABLES. THE [REDACTED] ISSUE.

12 AND CERTAINLY, THE BROWN PLAINTIFFS, AS I'M UNDERSTANDING
13 IT, BELIEVES THAT THAT IDENTIFIES USERS, NOT DEVICES, BUT
14 USERS, AND GOOGLE'S COMMENT IN THE JOINT STATEMENT IS THAT THE
15 [REDACTED] IS ONE OF THE BISCOTTI ID'S, IS JUST ONE OF THE
16 BISCOTTI'S ID'S GROUPED TOGETHER IN THE [REDACTED] TABLES AS
17 POSSIBLY BELONGING TO THE SAME USER OR DEVICE, AND ANY LINKAGE
18 BETWEEN THE [REDACTED] AND OTHER BISCOTTI ID'S IS DERIVED FROM
19 OTHER MAPPING AND LINKING TABLES.

20 SO IT'S NOT QUITE CLEAR TO ME WHAT GOOGLE IS SAYING OR
21 WHAT DISTINCTION IT THINKS IT'S MAKING THERE. DO THE [REDACTED]
22 [REDACTED] PROVIDE LINKAGES TO USER ID'S OR NOT, OR YOU DON'T KNOW?

23 MS. TREBICKA: YOUR HONOR, I WILL DEFER TO MY
24 COLLEAGUE, TRACY GAO, WHO WILL BE ARGUING THIS PIECE OF THE
25 HEARING, THE [REDACTED] PIECE.

1 BUT JUST TO SET IT UP, YOUR HONOR, THANK YOU FOR THE
2 QUESTION, AND JUST TO SET IT UP, THERE ARE TWO RESPONSES TO IT.

3 THE FIRST IS THAT MS. GAO WILL GO THROUGH THIS IN REALLY A
4 LITTLE MORE INFORMATION ON WHAT [REDACTED] IS AND HOW
5 UNRELATED IT IS TO THE DATA AT ISSUE IN BROWN, WHICH WILL
6 INFORM ALSO THE SECOND REASON, WHICH IS THAT THIS [REDACTED] IS
7 NOT WHAT THE BROWN PLAINTIFFS ARE EXPLAINING IT TO BE.

8 AND I WILL DEFER TO MS. GAO TO WALK THROUGH BOTH OF THESE
9 GROUNDS.

10 THE COURT: ALL RIGHT. MS. GAO.

11 MS. GAO: YOUR HONOR, TO FIRST BRIEFLY ANSWER YOUR
12 QUESTION, WHAT IS [REDACTED]? CONTRARY TO PLAINTIFF'S ASSERTION,
13 WHICH IS BASED ON MISTAKEN UNDERSTANDING OF [REDACTED] AND
14 [REDACTED], IT IS NOT UNIQUE TO [REDACTED].

15 WHAT [REDACTED] DOES, IS LIKE, AFTER [REDACTED]
16 LINKS DIFFERENT MULTIPLE BISCOTTI ID'S, IT WILL DEFINE ONE OF
17 THEM AS [REDACTED].

18 SO IT'S REALLY JUST ONE OF BISCOTTI ID'S. SO ANY LINKAGES
19 BETWEEN THIS [REDACTED], WHICH AGAIN IS ONE OF BISCOTTI ID'S, ANY
20 LINKAGE BETWEEN THIS [REDACTED] AND OTHER BISCOTTI ID'S, ARE
21 DERIVED FROM THE SAME SOURCE TABLES THAT GOOGLE IS ALREADY
22 PRESERVING.

23 AND ALSO GOING BACK TO THE BROADER QUESTION OF WHAT
24 [REDACTED] MEANS AND WHY THE [REDACTED] TABLES ARE NOT
25 NEEDED TO READ OR UNDERSTAND THE --

1 THE COURT: BEFORE YOU GO THERE, MS. GAO, BEFORE YOU
2 GO THERE, I WANT TO BE SURE I UNDERSTAND WHAT YOU WERE JUST
3 TRYING TO EXPLAIN, WHICH IS THE [REDACTED], IT JUST SELECTS A
4 BISCOTTI ID AND MAKES THAT THE [REDACTED]?

5 MS. GAO: YES.

6 FOR EXAMPLE, [REDACTED] GROUPS THREE BISCOTTI ID'S AS
7 POSSIBLY BELONGING TO THE SAME USER DEVICE. ONE OF THEM --

8 THE COURT: SO DOES IT DISTINGUISH WHETHER IT BELONGS
9 TO THE SAME USER OR DEVICE, OR IT'S JUST, THIS IS EITHER THE
10 SAME USER OR THE SAME DEVICE?

11 MS. GAO: IN CERTAIN CASES, THE SOURCE ID'S ARE FROM
12 SIGNED-IN BROWSING ACTIVITY, BECAUSE THERE'S THE GAIA ID, WHO
13 WILL KNOW THIS IS THE SAME USER. BUT IN OTHER CIRCUMSTANCES
14 WHERE THE UNDERLYING ID'S ARE FROM APP ACTIVITIES, GOOGLE WILL
15 KNOW THEY ARE FROM THE SAME MOBILE DEVICE.

16 THE COURT: OKAY. SO IN [REDACTED], IT'S GOT SIX ID'S,
17 AND IT SAYS OH, OKAY, THIS LOOKS LIKE IT'S THE SAME USER
18 DEVICE, AND THEN IT JUST -- IT PICKS ONE OF THOSE BISCOTTI ID'S
19 THAT IT HAS IDENTIFIED IN THIS GROUP AND MAKES IT THE [REDACTED].

20 MS. GAO: YES. THAT IS CORRECT, YOUR HONOR.

21 THE COURT: AND DOES IT DEFER TO A USER ID OR A
22 DEVICE ID, OR IS IT RANDOM, IT JUST PICKS ONE?

23 MS. GAO: IT JUST PICKS ONE OF THE BISCOTTI ID'S.

24 THE COURT: OKAY.

25 MS. GAO: YOUR HONOR, IF I MAY GO BACK TO THE BROADER

1 QUESTION OF WHAT [REDACTED] IS.

2 THE COURT: YEAH, PLEASE.

3 MS. GAO: YEAH.

4 SO THE [REDACTED] -- YOUR HONOR ADVERTISED AT THE
5 JANUARY 10TH HEARING THAT THE MAPPING OR LINKING TABLE SHOULD
6 BE PRESERVED TO BE SURE THAT OTHER DATA AT ISSUE COULD BE READ.
7 BUT THE [REDACTED] TABLES DO NOT HELP THIS GOAL AT ALL.

8 IN THE BROWN CASE, NO IDENTIFIER WAS SAVED AS PART OF THE
9 DATA FLOW IN BROWN, IT'S CONTAINED IN THE [REDACTED] TABLES.
10 THAT IS BECAUSE THE BISCOTTI ID'S IN THE [REDACTED] TABLES
11 ARE NOT THE SAME BISCOTTI ID'S THAT WERE SAVED AS PART OF THE
12 BROWN DATA FLOW.

13 THE BROWN CASE INVOLVES SIGN-OUT PRIVATE WEB BROWSING
14 DATA, BUT BY CONTRAST, [REDACTED] CONTAINS LINKAGES OF
15 BISCOTTI ID'S THAT ARE DERIVED FROM MAPPINGS OR LINKINGS OF
16 IDENTIFIERS, WERE SAVED FROM TWO SEPARATE DATA FLOWS. IT'S
17 EITHER APP ACTIVITIES, WHICH IS NOT AT ISSUE DATA, OR SIGN-IN
18 WEB BROWSING DATA, WHICH IS ALSO NOT THAT DATA.

19 THEREFORE, THE [REDACTED] TABLES ARE COMPLETELY
20 UNNECESSARY TO READ THE OTHER DATA AT ISSUE IN BROWN. SO THE
21 PRESERVATION OF THE [REDACTED] TABLES IS AT LARGE COST,
22 INCLUDING ENGINEERING, MONETARY PRIVACY IS SIMPLY NOT
23 PROPORTIONAL TO THE NEEDS OF THE CASE.

24 AND THERE IS A SECOND REASON WHY THE [REDACTED] TABLES
25 NEED NOT BE PRESERVED, WHICH IS --

1 THE COURT: BEFORE YOU GO THERE -- BEFORE YOU GO
2 THERE, MS. GAO, LET ME TAKE YOU BACK TO A COMMENT YOU MADE IN
3 THIS DISCUSSION, WITH REGARDS TO THE BISCOTTI ID'S IN THE
4 [REDACTED] TABLES NOT BEING THE SAME BISCOTTI ID'S IN THE
5 BROWN FLOW. EXPLAIN THAT TO ME AGAIN. OR JUST REPEAT IT, I
6 JUST WANT TO BE SURE I UNDERSTAND WHAT YOU ARE SAYING.

7 MS. GAO: SURE, YOUR HONOR.

8 IT MAY BE EASIER, YOUR HONOR, IF I PRESENT MY SCREEN TO
9 SHOW THE JANUARY 26TH LETTER THAT WE SENT.

10 THE COURT: I HAVE A COPY OF THE LETTER IN FRONT OF
11 ME. JUST WALK ME THROUGH, VERBALLY, YOUR EXPLANATION AGAIN
12 BEFORE WE GO TO THE LETTER. JUST SAY IT AGAIN, I WANT TO BE
13 SURE I'VE HEARD YOU CORRECTLY.

14 MS. GAO: OKAY, YOUR HONOR.

15 THAT IS BECAUSE THE BISCOTTI ID'S LINKED IN THE
16 [REDACTED] TABLES, THEY COME FROM [REDACTED] UNDERLYING TABLES.
17 AND THESE TABLES RECEIVE DATA FROM TWO SEPARATE DATA FLOWS.

18 ONE, APP ACTIVITIES, WHERE AN APPLICATION, APP, IS
19 INVOLVED. THAT IS NOT AT ISSUE IN BROWN.

20 OR SECOND, SIGN-IN WEB BROWSING DATA. THAT IS ALSO NOT AT
21 ISSUE IN THE DATA IN BROWN, BECAUSE THE BROWN CLASS IS LIMITED
22 TO USERS WHEN THEY VISIT A WEBSITE USING THEIR BROWSER IN
23 PRIVATE BROWSING MODE, AND ALSO SIGNED OUT OF THEIR GOOGLE
24 ACCOUNT.

25 THEREFORE, ALL OF THE BISCOTTI ID'S IN THE [REDACTED]

1 TABLES HAVE NOTHING TO DO WITH THE DATA FLOW AT ISSUE IN BROWN.

2 THE COURT: OKAY. I UNDERSTAND THAT.

3 YOU SAID THAT'S ILLUSTRATED IN YOUR JANUARY 26TH LETTER.

4 MS. GAO: YES, YOUR HONOR.

5 THAT'S ON PAGE 4 WHERE WE LISTED OUT ALL OF THE SOURCE
6 TABLES. AND AS YOUR HONOR CAN SEE, THE [REDACTED] TABLES, THE
7 MAP -- ALL OF THE [REDACTED] TABLES, THE MAP IDENTIFIERS THAT
8 WERE SAVED THROUGH APP ACTIVITIES, FOR EXAMPLE, YOUR HONOR,
9 IDFA, AND AD ID'S ARE MOBILE DEVICE ID'S.

10 AND THE [REDACTED] TABLES, THEY CONTAIN A LINKING
11 BETWEEN [REDACTED] OR [REDACTED] TO BISCOTTI. [REDACTED] IS A
12 [REDACTED]. AND [REDACTED] ARE [REDACTED]
13 [REDACTED]. SO THIS LINKAGE HAPPENS ONLY WHEN A USER SIGNS IN TO
14 THEIR GOOGLE ACCOUNT.

15 THE COURT: OKAY.

16 MS. GAO: BECAUSE THE BISCOTTI ID'S -- SO WHAT
17 [REDACTED] DOES, YOUR HONOR, IS FOR EXAMPLE, ON DAY ONE,
18 THERE IS AN AD ID MAPPED TO A MOBILE APP BISCOTTI IN THE FIRST
19 TABLE, AND ON THE SAME DAY, FOR EXAMPLE, IF THE SAME AD ID IS
20 LINKED TO A UNIFIED WEB VIEW BISCOTTI IN THE SECOND TABLE, THEN
21 THE [REDACTED] SNAPSHOT GENERATED ON THAT DAY WILL CONTAIN A
22 LINKAGE BETWEEN THE MOBILE APP BISCOTTI AND THE UNIFIED WEB
23 VIEW BISCOTTI.

24 SO ALL OF BISCOTTI'S CONTAINED IN THE [REDACTED] TABLES
25 ARE FROM THESE [REDACTED] TABLES WHICH RECEIVE DATA FROM EITHER APP

1 ACTIVITIES OR SIGNED-IN ACTIVITIES, THAT HAS NOTHING TO DO WITH
2 THE BROWN CASE.

3 THE COURT: OKAY. ALL RIGHT. THAT IS HELPFUL.
4 THANK YOU.

5 MS. GAO: AND YOUR HONOR, FOR THE CALHOUN CASE, IT'S
6 A LITTLE DIFFERENT BECAUSE -- BUT THE CONCLUSION IS THE SAME,
7 THAT THE [REDACTED] TABLES ARE NOT NEEDED TO RID THE OTHER
8 DATA ISSUE, BECAUSE APP ACTIVITIES ARE NOT AT ISSUE IN CALHOUN
9 EITHER.

10 FOR SIGNED-IN BROWSING, WEB BROWSING ACTIVITIES, THE
11 BISCOTTI LINKAGE IS DERIVED FROM IDENTIFIERS SAVED THROUGH
12 SIGN-IN WEB BROWSING ACTIVITIES, ARE NOT NEEDED TO READ THE
13 UNDERLYING DATA EITHER, BECAUSE ALL OF THE DATA THAT GOOGLE IS
14 STORING, IT'S STORED WITH AN AD IDENTIFIER ALONG WITH THE DATA.

15 SO IF WE GET A BISCOTTI, OR IF WE GOT A GAIA, WE CAN
16 SEARCH FOR DATA ASSOCIATED WITH THE BISCOTTI OR THE GAIA. WE
17 DON'T NEED TO REFER TO THE [REDACTED] TABLE TO READ OR
18 UNDERSTAND ANY OF THE PRESERVED DATA OR OTHER DATA AT ISSUE IN
19 THE CALHOUN CASE ALSO. THEREFORE --

20 THE COURT: SO SAY THAT AGAIN FOR ME WITH REGARDS TO
21 YOUR POSITION AS TO WHY THE [REDACTED] TABLES ARE AN
22 ADDITIVE IN CALHOUN, BECAUSE THE GAIA? SAY THAT LAST PART
23 AGAIN.

24 MS. GAO: BECAUSE YOUR HONOR, THE DATA THAT WE ARE
25 STORING IN THE CALHOUN CASE IS ALL KEYED BY AN IDENTIFIER THAT

1 IS STORED TOGETHER WITH THE DATA.

2 SO IF WE GET A BISCOTTI ID OR IF WE GET A GAIA ID, WE CAN
3 SEARCH THE DATA THAT IS ASSOCIATED WITH THE BISCOTTI OR THE
4 GAIA, AND WE DON'T NEED TO REFER TO THIS [REDACTED] TABLE TO
5 UNDERSTAND THE UNDERLYING DATA, BECAUSE [REDACTED] IS FOR A
6 VERY PARTICULAR USE CASE, WHICH IS TO ESTIMATE THE NUMBER OF
7 CONVERSIONS. IT'S NOT USED TO IDENTIFY DATA ASSOCIATED WITH A
8 PARTICULAR USER OR TO IDENTIFY ANY USER FOR THAT PURPOSE.

9 THE COURT: OKAY.

10 MS. GAO: YOUR HONOR, THAT IS GENERALLY THE FIRST
11 REASON WHY THE [REDACTED] TABLES NEED NOT BE PRESERVED.

12 AND THE SECOND REASON IS THAT GOOGLE IS ALREADY PRESERVING
13 ALL OF THE SOURCE TABLES THAT UNDERLIE [REDACTED]. JUST BY
14 THE FACT THAT, AS I JUST EXPLAINED, THEY CONTAIN MAPPINGS OR
15 LINKINGS THAT HAVE NOTHING TO DO WITH THE DATA FLOW IN BROWN.

16 AND THEREFORE, EVEN IF THE COURT LATER DETERMINES THAT
17 PLAINTIFFS WILL NEED THE BISCOTTI LINKAGES THAT ARE NOT
18 RECEIVED AS PART OF THEIR DATA FLOW AT ISSUE, CUSTOM PIPELINES
19 COULD BE CREATED TO RECREATE THE BISCOTTI LINKAGES FROM THE
20 UNDERLYING DATA THAT WE ARE ALREADY PRESERVING IN THESE SOURCE
21 TABLES.

22 AND IN COMPLIANCE WITH YOUR HONOR'S INSTRUCTION AT THE
23 LAST HEARING, WE DID DEMONSTRATE FOR PLAINTIFFS TWO THINGS:

24 THE FIRST, WE DEMONSTRATED FOR THEM WHAT IDENTIFIER
25 LINKAGES THE [REDACTED] TABLES CONTAINED BY PRODUCING SAMPLE

1 DATA FROM [REDACTED].

2 AND SECOND, WE DEMONSTRATED FOR THEM WHERE THE

3 [REDACTED] LINKAGES COME FROM BY PRODUCING THE SOURCE CODE.

4 AND BECAUSE GOOGLE CONFIRMED THAT WE ARE PRESERVING ALL OF
5 THE SOURCE CODE, CUSTOM PIPELINES COULD BE CREATED TO RECREATE
6 THE BISCOTTI LINKAGES. WE DON'T NEED TO PRESERVE THE
7 [REDACTED] TABLES NOW.

8 THE COURT: OKAY. THANK YOU.

9 THAT'S VERY HELPFUL, AND I THINK THAT THAT LENDS ITSELF TO
10 AN ORGANIZATION AS TO HOW TO PROCEED, WHICH IS PERHAPS TO
11 ADDRESS THE [REDACTED] TABLES.

12 AND LET ME HEAR FROM BROWN IN THE FIRST INSTANCE. BUT
13 GIVE ME JUST A MINUTE, MR. MCGEE, TO FINISH MY NOTE HERE.

14 (PAUSE IN PROCEEDINGS.)

15 THE COURT: OKAY. MR. MCGEE, BROWN, [REDACTED]
16 TABLES.

17 MR. MCGEE: SURE, YOUR HONOR. THANK YOU.

18 THE FIRST THING THAT I WOULD LIKE TO START WITH IS BY
19 NOTING THAT DURING THE SPECIAL MASTER PROCESS WHEN THE
20 PLAINTIFFS WERE ASKED TO PROVIDE CERTAIN IDENTIFIERS, GOOGLE
21 TURNED TO THESE [REDACTED] TABLES TO PRODUCE THE DATA THAT
22 PLAINTIFFS REQUESTED. GOOGLE DID NOT TURN TO THE PRESERVED
23 SOURCES THAT THEY NOW REFER TO IN THIS MOTION AND IN THIS
24 LETTER BRIEF PRACTICE, TO DERIVE OR DUPLICATE THE DATA. GOOGLE
25 HAD TO GO TO THE [REDACTED] TABLES.

1 WE AGAIN, WE NOTE IN THE LETTER, WE HAVE NOTED IN THE
2 BRIEFING, WE DON'T KNOW WHICH TABLES THEY WENT TO. GOOGLE
3 WOULD NOT EXPLAIN WHICH TABLES THEY WENT TO, BUT THEY WENT TO
4 THOSE TABLES WITH ONE IDENTIFIER, SAY BISCOTTI, TO PULL DATA
5 RELATED TO UID'S, CID'S, ZWIEBACKS, AND OTHER IDENTIFIERS. AND
6 WHENEVER WE WOULD SUBMIT IDENTIFIERS, THESE ARE THE SOURCES OF
7 TRUTH THAT GOOGLE WOULD GO TO IN ORDER TO PULL, THEY WOULDN'T
8 RUN SOURCE CODE, WE HAVE NOT SEEN, THAT OUR EXPERTS ASKED FOR
9 AND OUR CONSULTANTS ASKED FOR, THEY WOULD NOT ENGAGE IN THE
10 PROCESS THAT THEY HAVE DESCRIBED TO YOU NOW, THEY ESSENTIALLY
11 TOOK THE SHORTCUT OF GOING TO THESE [REDACTED] TABLES.

12 THE COURT: WELL, ISN'T THAT THEIR POINT, THAT THE
13 [REDACTED] TABLES MAY BE A SHORTCUT, BUT THEY ARE VERY
14 LARGE, THEY ARE VERY EXPENSIVE TO RETAIN, AND IN FACT ALL OF
15 THE UNDERLYING DATA IS PRESERVED IN THESE OTHER PLACES? I'M
16 JUST -- THAT'S HOW I UNDERSTAND GOOGLE'S ARGUMENT.

17 MR. MCGEE: I THINK THAT --

18 THE COURT: GO AHEAD, MR. MCGEE.

19 MR. MCGEE: I THINK THAT'S WHAT THEY ARE TRYING TO
20 CONVEY.

21 I THINK THAT OUR POINT IS THAT OUR CONSULTANTS AND OUR
22 EXPERTS HAVE NOT BEEN SO CONVINCED THAT ALL OF THE INFORMATION
23 THAT SITS IN THESE TABLES IS THE SAME INFORMATION THAT'S IN
24 THESE -- EXCUSE ME, THAT SITS IN THE [REDACTED], I BELIEVE, UNDERLYING
25 SOURCES, IS ALL OF THE SAME INFORMATION IN THESE [REDACTED]

1 [REDACTED], OR [REDACTED], [REDACTED] TABLES.

2 AND AGAIN, I TAKE YOUR POINT, I WILL STICK WITH JUST

3 [REDACTED]. WITH THE DATA AT ISSUE, YOUR HONOR, I KNOW THAT
4 YOU HAVE OVERSEEN MANY DISPUTES IN THIS CASE, AND WE HAVE
5 APPRECIATED THAT ATTENTION, BUT THIS SIGNED-IN/SIGNED OUT, I
6 WILL GIVE AN EXAMPLE, AND I PROVIDED THIS EXAMPLE AT PREVIOUS
7 HEARINGS, WHERE IF A USER VISITS THREE NON-GOOGLE PROPERTIES,
8 LET'S SAY THE *NEW YORK TIMES*, THEN *THE WASHINGTON POST*, THEN
9 *CAR AND DRIVER*, AND IS LOGGED OUT, AND IN ANY OF THOSE
10 INSTANCES, AND THEN IN THE FOURTH TAB, LOGS INTO GOOGLE.COM,
11 GMAIL, OR ANY OTHER GOOGLE PROPERTY, THIS IS A UNIFICATION OF
12 THAT DATA. BUT THOSE FIRST THREE INSTANCES, THOSE FIRST THREE
13 ACTIVITIES THAT THAT USER TOOK, WOULD BE IN OUR CLASS
14 DEFINITION.

15 THAT INFORMATION WOULD THEN BE ASSOCIATED WITH A GAIA, AND
16 FALL WITHIN THIS -- PART OF THAT DATA THAT MS. GAO WAS
17 EXPLAINING TO YOU.

18 AND THEN ALSO, IF A USER LOGS INTO ANY OF THOSE
19 THIRD-PARTY WEBSITES, AND THERE IS A PPID, A PUBLISHER-ISSUED
20 THAT IS ASSOCIATED -- THAT IS THEN ASSOCIATED WITH A BISCOTTI,
21 THAT INFORMATION WOULD FALL IN THESE TABLES AND TECHNICALLY BE
22 IN THIS SIGNED-IN STATE THAT GOOGLE CONTINUALLY TRIES TO CARVE
23 OUT OF OUR CLASS DEFINITION.

24 I THINK MR. MAO MAY HAVE A SLIGHTLY MORE TECHNICAL
25 EXPLANATION FOR THAT, YOUR HONOR, BUT AT A VERY HIGH LEVEL,

1 THAT'S KIND OF WHAT I WANTED TO ADDRESS WITH THE LOGGED-IN AND
2 THEN THE NATURE OF THE TABLE, BUT I DON'T KNOW IF MR. MAO WANTS
3 TO ELABORATE ON THAT.

4 THE COURT: WELL, TELL ME BEFORE WE DIVE DOWN ANY
5 DEEPER, AS I UNDERSTAND GOOGLE'S POSITION, IS THAT OBVIOUSLY IN
6 BROWN, YOU'VE GOT THE SIGNED-IN ACTIVITY AND THE UNDERLYING
7 TABLES, THE UNDERLYING DATA SOURCES CAPTURE THAT.

8 AND ARE YOU SAYING, WELL, MAYBE YES, MAYBE NO, IT DEPENDS
9 IF IT'S -- IF THEY HAVE BEEN TO THESE OTHER -- IF THERE'S OTHER
10 ACTIVITY WHERE THEY ARE NOT SIGNED IN FIRST?

11 MR. MCGEE: WELL, I THINK, JUDGE, THE MAYBE YES,
12 MAYBE NO, WERE THE QUESTIONS THAT OUR CONSULTANTS POSED, I
13 THINK STILL REMAIN UNANSWERED.

14 AND YOUR HONOR WAS ABLE TO REVIEW THE MEET AND CONFER
15 VIDEO, GOOGLE HAS WRITTEN AND RESPONDED TO SOME OF THOSE
16 QUESTIONS, AS THE CALHOUN PLAINTIFFS POINT OUT IN THEIR PORTION
17 OF THE LETTER BRIEF, BUT WE STILL DON'T KNOW WHICH IDENTIFIERS
18 EXIST IN ALL OF THESE SOURCES, CHARACTERISTICS THAT ARE USED,
19 POTENTIAL INCOGNITO DETECTION.

20 WE DON'T KNOW THE ALGORITHM FOR HOW THOSE [REDACTED] ARE
21 DERIVED. WHICH BISCOTTI? IS IT CHOSEN AT RANDOM? HOW IS IT
22 CHOSEN?

23 BUT I DID SEE MR. MAO RAISE HIS HAND, SO I DID WANT TO
24 RESPOND TO YOUR HONOR, BUT I DID WANT TO SHARE THE FLOOR WITH
25 MR. MAO.

1 THE COURT: THANK YOU, MR. MCGEE.

2 MR. MAO.

3 MR. MAO: SORRY, JUDGE. I WILL GIVE YOU AN ANSWER,
4 SPECIFIC ANSWER, PERHAPS A HYPOTHETICAL, THAT MAY NEED BE TO
5 RESOLVED BETWEEN THE PARTIES, BUT HAS BEEN A SOURCE OF A VERY
6 LONG DEBATE, THAT I DON'T THINK EVER ENDED IN ANY RESOLUTION,
7 THAT IS CAUSING SOME OF THE QUESTIONS, AND PERHAPS PARANOIA ON
8 BOTH SIDES; WHICH IS, YOU SEE IN THE EXPLANATION IN THE LETTER,
9 WHICH IS THAT APP ID'S, RIGHT, ARE ASSOCIATED WITH SIGNED-IN
10 DATA.

11 BUT THAT SIGNED-IN DATA, FROM OUR REVIEW OF THE DOCUMENTS,
12 THAT SIGNED-IN DOES NOT REQUIRE THAT YOU ACTUALLY SIGN IN ON
13 THE GOOGLE BROWSER, OKAY.

14 FOR EXAMPLE, IF YOU ARE AN ANDROID USER AND YOU ARE SIGNED
15 IN ON THE DEVICE, OKAY, YOUR APP ID'S, WHICH MAY BE THE SAME
16 ID'S THAT -- SO FOR EXAMPLE, FOR YOUR UBER APP, OKAY, YOUR UBER
17 APP SIGN-IN ID FOR UBER, OKAY, MAY BE THE SAME ID THAT YOU HAVE
18 FOR SIGNED-IN ON UBER.COM ON THE WEB, RIGHT.

19 SO THERE IS A LINKAGE WHEN YOU ARE SIGNED IN ON YOUR
20 DEVICE, OKAY, THROUGH YOUR APP, IN WHICH -- SO FOR EXAMPLE, LET
21 ME PERHAPS TAKE A MORE --

22 THE COURT: DON'T LEAVE ME WAITING FOR MY UBER,
23 FINISH THAT EXAMPLE.

24 MR. MAO: YEAH, YEAH, WELL, I WAS GOING TO SWITCH
25 UBER TO MAYBE BANK OF AMERICA. I'M TRYING TO THINK OF A MORE

1 COMMON USAGE.

2 SO IF I'M SIGNED IN TO MY BANK OF AMERICA ID, AND YOU
3 KNOW, THOSE OF US WITH KIDS AND HOUSEHOLDS, WE PROBABLY CHECK
4 OUR FINANCES QUITE A BIT, RIGHT, LIKE ON A WEEKLY OR EVERY
5 OTHER DAY, PERHAPS. WHEN YOU ARE SIGNED IN, FOR EXAMPLE, ON
6 YOUR ANDROID DEVICE OR ON IOS, WHEN YOU ARE SIGNED IN TO YOUR
7 GMAIL, YOUR APPS ARE ASSOCIATED WITH EACH OTHER.

8 SO YOUR UBER, WITH YOUR BANK OF AMERICA, THESE ARE ALL A
9 CLUSTER WITHIN [REDACTED], THAT'S AT LEAST THE WAY
10 PLAINTIFFS EXPLAINED TO US IN THE LETTER, OKAY.

11 OUR POINT IS, IF YOU RECALL, JUDGE, WAY BACK, I THINK IN
12 JULY OF 2021, WE WERE ARGUING ABOUT SIGNED-IN VERSUS SIGNED
13 OUT, AND THERE WAS A QUESTION ON WHAT HAPPENS WHEN SOMEBODY
14 SIGNS IN, NOT ON GOOGLE, BUT ON A THIRD-PARTY WEB PROPERTY IN
15 INCOGNITO OR IN PRIVATE BROWSING, RIGHT.

16 OUR REVIEW OF THE TECHNICAL DOCUMENTS, OKAY, OUR INFERENCE
17 IS THOSE ID'S, BECAUSE OF THE APP PLUS WEB INTEGRATION OF
18 GOOGLE ANALYTICS AND OTHER WAYS IN WHICH GOOGLE USED
19 THIRD-PARTY ID'S, THERE'S A LINKAGE THERE.

20 SO NO MATTER IF YOU ARE SIGNED IN, IN WHAT STATE,
21 INCOGNITO, ON THE APP, ON THE WEB, OKAY, THAT COMMON LINKAGE IS
22 THERE, IN ORDER FOR THAT USER TO BE IDENTIFIED.

23 SO I MEAN, LOOK, YOUR HONOR, IF THEIR REPRESENTATION IS
24 THAT SOMEHOW THIS IS PRESERVED ELSEWHERE, THERE IS STILL A
25 QUESTION AS TO WHETHER OR NOT, OKAY, THOSE ID'S ARE WHAT WE

1 WOULD USE IN ORDER TO IDENTIFY THE USERS IN THE SIGNED OUT
2 LOGS, IN INCOGNITO, IN THE PRIVATE BROWSING LOGS.

3 AND THAT, IF YOU LOOK AT THE HISTORY OF THAT DEBATE,
4 YOUR HONOR, THAT HAS NEVER BEEN FULLY RESOLVED. IT IS ONE OF
5 THE -- YOU KNOW, WE HAVE NEVER RELENTED ON THAT ISSUE, WE HAVE
6 ALWAYS BEEN INSISTENT THAT WHEN A USER SIGNS IN TO A
7 THIRD-PARTY WEBSITE, OKAY, IN INCOGNITO OR IN PRIVATE BROWSING,
8 OKAY, THAT TRAFFIC IS ABSOLUTELY RELEVANT IN THIS CASE BECAUSE
9 THEY ARE NOT SIGNING INTO GOOGLE.COM, ALL RIGHT, AND WE BELIEVE
10 THAT IS PART OF THE [REDACTED] DYNAMIC THAT'S AT ISSUE
11 HERE.

12 I HOPE THAT IS, YOU KNOW, ILLUSTRATIVE. AND THE NICE
13 THING THERE IS, YOUR HONOR, THERE IS NO DISPUTE BY GOOGLE,
14 OKAY, THAT THAT INSTANCE, THAT BELONGS TO A SPECIFIC PERSON.

15 AND THAT [REDACTED], AS FAR AS I CAN TELL, FROM WHAT
16 HAS BEEN BRIEFED AND WHAT HAS BEEN STATED TO YOU, THERE IS NO
17 SUBSTITUTE FOR THAT [REDACTED]. THAT USER HAS BEEN
18 IDENTIFIED AN ASSIGNED [REDACTED].

19 I AM NOT AWARE OF ANY OTHER SOURCE, DESPITE THE LINKAGE,
20 OKAY, THAT THE [REDACTED], ITSELF, WILL BE FOREVER GOT.
21 AND BY THE WAY, FROM THE DISCLOSURES IN THE LETTERS HERE,
22 YOUR HONOR, IT'S ALSO NOT CLEAR THEY HAVE ACTUALLY BEEN
23 PRESERVING THIS.

24 THE COURT: DIFFERENT ISSUE, MR. MAO.

25 MR. MAO: YEAH, I UNDERSTAND, I UNDERSTAND.

1 THE COURT: WELL, BUT I WANT TO BE SURE I UNDERSTAND
2 YOUR POINT.

3 SO SAY IT AGAIN, THAT IF YOU ARE SIGNED IN, NOT TO YOUR
4 GOOGLE ACCOUNT, BUT SIGNED IN, WALK ME THROUGH IT.

5 MR. MAO: RIGHT, RIGHT.

6 SO LET'S SAY YOU USE ANDROID, ANDROID IS JUST THE EASIEST
7 EXAMPLE. IF YOU HAVE AN ANDROID DEVICE AND YOU ARE SIGNED IN
8 TO YOUR -- YOU ARE SIGNED IN TO YOUR BANK OF AMERICA APP, YOUR
9 UBER APP.

10 THE COURT: I WANT TO GET YOU TO WHAT YOU THINK THE
11 LINKAGE THAT YOU ARE SAYING ONLY EXISTS IN A [REDACTED]
12 TABLE.

13 MR. MAO: RIGHT. IT IS THE [REDACTED], OKAY,
14 THAT LINKS ALL OF THESE ID'S AS BELONGING TO THE SAME PERSON.

15 THE COURT: I UNDERSTAND. BUT WHAT IS THAT PERSON
16 DOING THAT YOU THINK THE DATA IS ONLY IN [REDACTED] AND NOT
17 IN ANY OF THE OTHER SOURCE TABLES?

18 MR. MAO: HOWEVER THAT [REDACTED] IS USED,
19 RIGHT, ONCE THAT [REDACTED] IS GONE, I CAN'T TRACE BACK
20 TO THE USING THE [REDACTED].

21 THE COURT: OKAY.

22 NOW WALK ME THROUGH FROM THE OTHER DIRECTION, WHAT IS THE
23 USER DOING THAT LEADS TO THAT? WALK ME THROUGH IT ONE MORE
24 TIME. YOU SAID IT ABOUT THREE TIMES, WALK ME THROUGH IT ONE
25 MORE TIME.

1 MR. MAO: YES.

2 SO WHAT GOOGLE IS NOT DISPUTING IS THAT IF THERE IS A
3 SIGNED-IN ACTIVITY ON THE APP SIDE, OKAY, THEN ALL THE OTHER
4 SIGNED-IN APPS ARE ASSOCIATED WITH EACH OTHER AS BELONGING TO
5 THE SAME SIGNED-IN ACCOUNT.

6 AND THEN MY POINT IS, WHENEVER THAT SIGN-IN ID ALSO
7 APPEARS IN A SIGNED OUT, I.E. GOOGLE SIGNED OUT, RIGHT, LIKE
8 NOT SIGNING INTO GOOGLE, LOG, IT'S THE SAME PERSON, YOUR HONOR.

9 SO WHILE I APPRECIATE THAT THERE'S THIS FOCUS ON BISCOTTI
10 OR THE GAIA, THE POINT IS ACTUALLY THE LINKAGE OF THE ID'S
11 ASSOCIATED AROUND THE SAME PERSON AND THE SAME DEVICE AND NOT
12 ON THE ID ITSELF. AND ONCE THAT LINKAGE IS DESTROYED, OKAY,
13 GOOGLE HAS NOT INDICATED THAT WE CAN ACTUALLY RE-ASSOCIATE
14 WHATEVER THE [REDACTED] THAT THAT WAS ASSIGNED TO AND HOW
15 THAT WAS USED.

16 THE COURT: OKAY.

17 MR. MAO: WE HAVE NEVER BEEN GIVEN ANY LOGS OR
18 SOURCES AS TO HOW THE [REDACTED], ITSELF, IS ACTUALLY
19 USED.

20 AND YOU CAN APPRECIATE, YOUR HONOR, THAT THAT CERTAINLY --
21 THAT IS CERTAINLY RELEVANT TO THE INJUNCTIVE RELIEF.

22 THE COURT: RELEVANT TO WHAT?

23 MR. MAO: THE INJUNCTIVE RELIEF.

24 THE COURT: OH. ALL RIGHT.

25 MR. MAO: BECAUSE THAT [REDACTED] IS UNIQUE TO

1 THE CLUSTER, RIGHT, WHICH IS UNIQUE TO THAT TABLE. AND SINCE
2 THERE'S NO SUBSTITUTE FOR THAT TABLE -- FOR EXAMPLE, THE JUDGE,
3 LET'S ASSUME, AND I'M NOT TRYING TO HAVE ARGUMENT, I'M JUST
4 PLAYING THROUGH THE HYPOTHETICAL, IF THE JUDGE AND JURY FIND
5 FOR THE PLAINTIFFS, RIGHT, AND BELIEVE THAT ALL SOURCES THAT
6 HAD USED [REDACTED], INCLUDING IN SIGNED-IN, IN INCOGNITO
7 ACTIVITY, RIGHT, PROCESSES OR PRODUCTS THAT HAVE BEEN DEVELOPED
8 THAT NEED TO BE DELETED, RIGHT, THERE NEEDS TO BE SOME, RIGHT,
9 LIKE WE NEED TO HAVE A TRAIL, RIGHT, TO [REDACTED], AND
10 IF GOOGLE IS DESTROYING THAT ASSOCIATION FROM THE UNIQUE
11 SOURCE, HOW ARE THE PARTIES GOING TO DISCUSS THAT?

12 THE COURT: OKAY. I GOT IT, MR. MAO. THANK YOU.

13 MR. MAO: I APPRECIATE IT, YOUR HONOR.

14 THE COURT: MS. TREBICKA, RESPONSE, OR MS. GAO, I'M
15 SORRY, TO MR. MAO'S POINT, WHICH WAS ALSO RAISED IN THE MEET
16 AND CONFER DISCUSSION, THAT THERE IS A LINKAGE IN [REDACTED]
17 THAT DOESN'T EXIST ANYWHERE ELSE?

18 AND I ANTICIPATE YOUR RESPONSE IS THAT'S NOT A LINKAGE
19 THAT THEY NEED, BUT I THINK THAT TAKES US TO THE BROADER ISSUE
20 ABOUT WHAT IS AND ISN'T, WHAT DOES AND DOESN'T FALL IN THE
21 CLASS; IS THAT RIGHT?

22 MS. TREBICKA: YES, YOUR HONOR. I WILL DEFER TO
23 MS. GAO ON THIS, BUT THERE ARE TWO RESPONSES. MS. GAO WILL GO
24 THROUGH THEM.

25 MS. GAO: YOUR HONOR, WHAT MR. MAO JUST DESCRIBED IN

1 THIS [REDACTED], THERE IS NO UNIQUE [REDACTED].
2 WHAT MR. MAO DESCRIBED AS A [REDACTED], IS THE [REDACTED],
3 WHICH IS DESCRIBED AND EXPLAINED TO YOUR HONOR.

4 THE [REDACTED] IS NOT UNIQUE TO [REDACTED], IT IS THE
5 SAME AS ALL THE OTHER BISCOTTI ID'S, WHICH WE CALL MEMBER ID'S
6 IN THE [REDACTED] TABLES. THEY ARE DERIVED FROM THE SOURCE
7 TABLES THAT GOOGLE IS SEPARATELY PRESERVING. THERE'S NOTHING
8 UNIQUE HERE IN [REDACTED] THAT'S NOT EXISTING SOMEWHERE ELSE
9 THAT GOOGLE IS ALREADY PRESERVING.

10 YOUR HONOR, MAY I ALSO RESPOND TO MR. MCGEE AND MR. MAO'S
11 OTHER POINTS?

12 THE COURT: LET ME JUST -- I TAKE IT, I WANT TO JUST
13 STAY ON THIS ISSUE FOR A MOMENT.

14 SO MR. MAO, YOU WERE QUITE CERTAIN THERE'S A UNIQUE
15 [REDACTED], AND AS MS. GAO, AND AS WAS SET FORTH IN THE
16 MEET AND CONFER, THE DISCUSSIONS AROUND THAT, THAT BEING THE
17 [REDACTED] THAT [REDACTED] PICKS, THAT'S WHAT YOU ARE
18 REFERRING TO?

19 WE ARE TALKING -- I UNDERSTAND WE PUT DIFFERENT WEIGHTS,
20 EACH SIDE PUTS DIFFERENT WEIGHTS ON IT, BUT I WANT TO BE SURE
21 WE ARE TALKING ABOUT THE SAME THING.

22 MR. MAO: SO I'M NOT SURE WE ARE TALKING ABOUT THE
23 SAME THING. AND THIS IS PART OF THE LETTER WHERE WE ARE
24 SAYING, IT WOULD HAVE BEEN NICE TO HAVE DISCUSSIONS WITH
25 ENGINEERS ON THIS. IF YOU MIGHT PARDON MY HEALTHY SKEPTICISM,

1 IF I MAY SAY, YOUR HONOR, BECAUSE THAT YOU WOULD RENAME A [REDACTED]
2 [REDACTED] ALSO ON A [REDACTED] TABLE AND TO HAVE SEPARATE
3 DUPLICATIONS OF THE SAME DATA ACROSS MULTIPLE TABLES AND THEN
4 TO CALL SOME [REDACTED] WITH SOME [REDACTED], IT'S --
5 WITHOUT HAVING ALLOWED US TO HAVE THE OPPORTUNITY TO KICK THE
6 TIRES, YOUR HONOR, I HOPE YOU CAN APPRECIATE MY HEALTHY
7 SKEPTICISM ON THIS ONE.

8 THE COURT: SO IS IT YOUR POSITION YOU HAVE SEEN
9 REFERENCE TO A [REDACTED] AND YOU ARE NOT SURE IF THAT IS
10 THE [REDACTED] THAT --

11 MR. MAO: YEAH, WE ARE NOT SURE.

12 YOUR HONOR, THAT WAS ONE OF OUR MAJOR QUESTIONS, BECAUSE I
13 CAN ASSURE YOU THAT BOTH CASES, THE PARTIES HAVE BEEN FIGHTING
14 OVER [REDACTED] FOR QUITE SOME TIME, AS TO WHAT EXACTLY THAT
15 IS, WHAT THAT IS ACTUALLY USED FOR AND WHAT PROCESSES ACTUALLY
16 USE THAT. AND THAT HAS BEEN A BIG QUESTION MARK.

17 SO WE ARE NOT -- I'M NOT TRYING TO BELABOR THE POINT, BUT
18 YOU KNOW, TAKING THAT REPRESENTATION ON ITS FACE WHEN IT'S
19 UNTESTED, SEEMS TO BE CONTRARY TO WHAT SHOULD HAVE BEEN DONE IN
20 DISCOVERY. AND I GUESS WE ARE JUST DISCUSSING WHAT WE ARE
21 TRYING TO DO NOW IN LIGHT OF THAT.

22 THE COURT: OKAY. ALL RIGHT. THANK YOU.

23 MS. GAO, BRIEFLY, YOU WANTED TO ADDRESS SOME OTHER POINTS?

24 MS. GAO: YES, YOUR HONOR.

25 MR. MCGEE, I BELIEVE, RAISED FOUR POINTS. I WOULD LIKE TO

1 ADDRESS THEM BRIEFLY ONE-BY-ONE.

2 THE FIRST POINT MR. MCGEE RAISED IS GOOGLE, DURING THE
3 SPECIAL MASTER PROCESS, GOOGLE TURNED TO [REDACTED] TABLES
4 TO PRODUCE DATA THAT PLAINTIFFS REQUESTED.

5 YOUR HONOR, I WAS INTIMATELY INVOLVED IN THE SPECIAL
6 MASTER DATA SEARCH AND PRODUCTION PROCESS. I CAN ASSURE THE
7 COURT THAT GOOGLE DID NOT TURN TO THE [REDACTED] TABLES TO
8 SEARCH OR PRODUCE ANY OF THE DATA PLAINTIFFS REQUESTED.

9 THE SPECIAL MASTER WORKED LIKE THIS, PLAINTIFFS SELECTED
10 DATA SOURCES FOR GOOGLE TO SEARCH --

11 THE COURT: I'M VERY FAMILIAR WITH EXACTLY HOW THE
12 SPECIAL MASTER PROCESS WORKED.

13 MS. GAO: YES.

14 WHAT GOOGLE DID IS GOOGLE SEARCHED THE IDENTIFIERS
15 PROVIDED BY PLAINTIFFS AND THEIR EXPERTS AGAINST THE DATA
16 SOURCES, THE LOGS, PLAINTIFFS REQUESTED US TO SEARCH. WE DID
17 NOT GO TO THE [REDACTED] TABLES, THAT IS MISTAKEN.

18 AND THE SECOND POINT MR. MCGEE RAISED IS THIS DISTINCTION
19 BETWEEN SIGN-IN AND SIGN OUT. BUT THE BROWN CLASS DEFINITION
20 SAYS THAT PLAINTIFFS ARE IN PRIVATE BROWSING MODE AND NEVER
21 SIGNED IN TO THEIR GOOGLE ACCOUNT.

22 AND MR. MCGEE'S THIRD POINT IS THAT WE --

23 THE COURT: RIGHT.

24 BUT ON THAT SECOND POINT, THE DISPUTE IS, BUT YOU ARE
25 SIGNED IN TO A THIRD-PARTY ACCOUNT, DOES THAT GET YOU THERE?

1 AND THAT'S --

2 MS. GAO: NO, IT HAS TO BE A GOOGLE ACCOUNT.

3 THE COURT: I UNDERSTAND THAT'S GOOGLE'S POSITION. I
4 DO UNDERSTAND THAT.

5 MS. GAO: YEAH.

6 AND THE THIRD POINT MR. MCGEE RAISED IS THAT WE DIDN'T
7 ANSWER SOME QUESTIONS, LIKE WHAT IDENTIFIERS EXIST IN ALL OF
8 THESE TABLES, AND WHAT DO THE TABLES CONTAIN IN INCOGNITO
9 DETECTION MODE.

10 WE ANSWERED ALL THESE QUESTIONS IN OUR FOLLOW-UP LETTER
11 SENT TO PLAINTIFFS ON JANUARY 30TH.

12 SO THE SHORT ANSWER IS THE [REDACTED] TABLE, THEY
13 CONTAIN BISCOTTI LINKAGES, NO OTHER IDENTIFIERS. AND THEY DO
14 NOT CONTAIN INCOGNITO DETECTION.

15 AND ALSO THE FOURTH POINT THAT MR. MCGEE RAISED ABOUT THE
16 AMBIGUITY IN THIS SOURCE CODE, THAT IS NOT TRUE ALSO, BECAUSE
17 WE CLARIFIED IN OUR FOLLOW-UP LETTER ON THE JANUARY 30TH, THAT
18 THE DATA SOURCES THAT HAS BEEN DEPRECATED AS SHOWING THE SOURCE
19 CODE, THEY WERE NEVER LAUNCHED IN THE [REDACTED] PIPELINES
20 OR THEIR USE IN [REDACTED], THEY WERE DEPRECATED AT LEAST
21 TWO YEARS AGO.

22 THE COURT: I SAW THE DEPRECATION DISCUSSIONS.

23 MS. GAO: YES.

24 AND ALSO, MR. MAO RAISED TWO POINTS. THE FIRST POINT IS
25 ABOUT THE [REDACTED], WHICH DID NOT EXIST, IT IS THE

1 [REDACTED], WHICH WE HAVE ADDRESSED BEFORE.

2 AND SECOND POINT IS ABOUT APP ID'S ARE ASSOCIATED SOMEHOW
3 WITH SIGN-IN DATA. THAT IS COMPLETELY WRONG. THAT IS NOT WHAT
4 [REDACTED] DOES. AND ALSO, APP ACTIVITIES ARE OUTSIDE THE
5 CLASS DEFINITION, IT HAS NOTHING TO DO WITH THE BROWN DATA
6 FLOW.

7 THE COURT: THANK YOU. I GOT IT. I GOT IT.

8 THANK YOU, MS. GAO.

9 DOES CALHOUN WANT TO BE HEARD ON THE [REDACTED] TABLE
10 ISSUE? MR. BARNES, YOU HAVE BEEN VERY PATIENT.

11 MR. BARNES: YES. YES, WE DO. THANK YOU,
12 YOUR HONOR.

13 CAN I JUST BACK UP AND TALK ABOUT A PROCESS ISSUE, BECAUSE
14 I FEEL LIKE WE ARE ARGUING A LOT ABOUT THE MERITS OF WHAT'S IN
15 OR NOT IN [REDACTED], AND WE STILL HAVE A LOT OF UNANSWERED
16 QUESTIONS.

17 YOUR HONOR STARTED THE HEARING BY NOTING THAT YOU HAD THE
18 BENEFIT OF SOME CORRESPONDENCE BACK AND FORTH. YOU WILL NOTE
19 THE CALHOUN PLAINTIFF'S PORTION OF THE BRIEFINGS BASICALLY
20 DIDN'T GET IN A BACK AND FORTH ABOUT WHAT HAPPENED OR HAD NOT
21 HAPPENED, IT JUST PROPOSED A WAY FORWARD TO RESOLVE DISPUTES.

22 WE SAID WE WERE GOING TO SEND A LETTER TO GOOGLE ON
23 FEBRUARY 6TH ASKING QUESTIONS. WE DID. TO MY KNOWLEDGE, WE
24 HAVE RECEIVED NO RESPONSE TO ANY OF THOSE QUESTIONS. THEY ARE
25 FAIRLY SIMPLE QUESTIONS. EIGHT OF THEM, I WOULD CATEGORIZE AS

1 ASKING FOR CONFIRMATIONS. ANOTHER SET OF THEM ASKS FOR LINK TO
2 PRESERVATION PERIODS IN [REDACTED], SO WE CAN COMPARE THEM
3 WITH RESERVATIONS AND OTHER LOGS. ANOTHER ASKS ABOUT OTHER
4 MAPPINGS THAT I WANT TO RETURN TO.

5 ANOTHER QUESTION ASKS VERY SIMPLY, IS THIS DATA BEING
6 PRESERVED FOR ANY OTHER LITIGATION? BECAUSE IF IT IS BEING
7 PRESERVED FOR ANOTHER LITIGATION, THEN THERE'S NO SINCE OF EVEN
8 HAVING THIS CONVERSATION.

9 THEN WE ASKED, IS THERE ANY UNIQUE DATA BEING DESTROYED
10 WITH THIS REQUEST THAT WOULD BE RELEVANT? AND WE ASKED TO MAKE
11 SURE THAT THEY ARE PRESERVING THE ENCRYPTION KEYS FOR THE
12 UNDERLYING LINKAGES TO MAKE CERTAIN IF WE CAME BACK LATER AND
13 TRIED TO DO THIS REMAKING OF THE AUTOMOBILE, THAT WE WOULD HAVE
14 THE KEYS AVAILABLE TO DO SO.

15 WE DON'T WANT ANY DUPLICATION. I HOPE THAT CAME THROUGH
16 TO YOUR HONOR IN REVIEWING THE MEET AND CONFER. BUT IN ORDER
17 TO NOT HAVE DUPLICATION AND AGREE TO NOT HAVE DUPLICATION, WE
18 HAVE TO HAVE A LITTLE BIT MORE TRANSPARENCY.

19 YOUR HONOR'S ORDER CONTEMPLATED THAT TECHNICAL PEOPLE
20 WOULD BE ON CALL. THERE WERE TECHNICAL PEOPLE ON OUR SIDE BUT
21 NOT ON THEIR SIDE. AND WHAT WE ARE REALLY TRYING TO GET AT IS
22 JUST ASSURE US THAT IMPORTANT THINGS AREN'T BEING DESTROYED.

23 AND LET ME GIVE YOU SOME EXAMPLES ON THE OTHER LINKAGES
24 INFORMATION WE ARE SEEKING. ARE THERE ZWIEBACK LINKAGES IN THE
25 DOCUMENT? ARE THERE OTHER IDENTIFIERS THAT ARE LINKED IN THESE

1 [REDACTED] TABLES THAT OTHERWISE ARE NOT LINKED SOMEWHERE?

2 AND I WILL GIVE YOU -- MR. MAO USED AN EXAMPLE. I WILL
3 GIVE YOU AN EXAMPLE AS WELL. SO WE JUST HEARD MS. GAO EXPLAIN
4 HOW [REDACTED] TIES TOGETHER, MAKES THIS BISCOTTI TO
5 BISCOTTI CONNECTION THROUGH THE CONNECTION OF A GAIA ID TO A
6 BISCOTTI ID FOR GOOGLE ACCOUNT HOLDERS.

7 AND THE WAY THAT HAPPENS, I THINK I HEARD IT DESCRIBED
8 CORRECTLY, IS THAT WHEN A USER IS SIGNED IN AND THEY GO TO A
9 NON-GOOGLE WEBSITE, THE BROWSER WILL SEND THE GAIA ID AND THE
10 BISCOTTI ID AT THE SAME TIME, RIGHT.

11 OKAY. LET ME GIVE YOU AN EXAMPLE. IF YOU GO TO A
12 HOSPITAL WEBSITE, THERE ARE LOTS OF HOSPITALS OUT THERE THAT
13 HAVE GOOGLE AD SOURCE CODE WHICH CAUSES A TRANSMISSION OF THE
14 GAIA ID AND THE ZWIEBACK ID TO BE SENT TO GOOGLE.COM, EVEN YOU
15 ARE NOT PRESENT ON GOOGLE.COM.

16 A LOT OF THOSE HOSPITAL WEBSITES DO NOT HAVE BISCOTTI ID
17 TRANSMISSIONS. SO IT WOULD BE IMPORTANT TO KNOW IF

18 [REDACTED] ALSO HAS A BISCOTTI TO ZWIEBACK LINKAGE THROUGH
19 THE SAME SORT OF INTER-CONNECTOR OF THE GAIA ID, BECAUSE THE
20 SAME LOGIC THAT APPLIES TO HOW [REDACTED] CAN CONNECT
21 BISCOTTI TO BISCOTTI, COULD ALSO BE USED TO TIE ZWIEBACK TO
22 ZWIEBACK OR ZWIEBACK TO BISCOTTI.

23 BECAUSE THERE ARE OTHER WEBSITES THAT MAKE DISCLOSURES
24 WHERE THE BROWSER SENDS THE GAIA ID, THE BISCOTTI ID, AND THE
25 ZWIEBACK ID ALL AT THE SAME TIME.

1 AND SO WHAT WE ARE TRYING TO MAKE CERTAIN IS THAT THERE'S
2 NOT HIGHLY RELEVANT DATA THAT'S BEING DESTROYED. THE WAY TO DO
3 THAT ISN'T SOME GRAND REOPENING DISCOVERY, IT'S TO SIMPLY HAVE
4 THE QUESTIONS WE ASKED IN OUR FEBRUARY 6TH LETTER TO BE
5 ANSWERED.

6 NOW, WE DIDN'T PROVIDE IT TO THE COURT BECAUSE IT WAS
7 AFTER BRIEFING WAS DONE. WE NOTIFIED YOUR HONOR THAT WE WERE
8 GOING TO SEND IT. AND SO WE WOULD LIKE TO BE ABLE TO SIT DOWN
9 WITH TECHNICAL PEOPLE ON THEIR SIDE AND GET ANSWERS TO THESE
10 VERY SIMPLE QUESTIONS BEFORE YOUR HONOR MAKES A DECISION ON
11 WHAT SHOULD BE DESTROYED OR NOT, BECAUSE WE DON'T HAVE CLEAR
12 ANSWERS.

13 AND I WOULD BE REMISS TO MR. -- HE'S NOT ON THE CALL
14 ANYMORE -- TO MR. MCGEE'S POINT. I HEARD AN EXPLANATION TODAY
15 OF [REDACTED], ABOUT HOW IT CAN BE USED TO MAP THIS STUFF
16 TOGETHER. AND I WOULD ASK YOUR HONOR TO GO BACK AND REVIEW THE
17 BRIEFING FROM JUNE OF 2021, AT DOCKET 226 AND DOCKET 232, ABOUT
18 WHAT PLAINTIFFS SAID COULD BE DONE WITH [REDACTED] AND WHAT
19 GOOGLE SAID COULD NOT BE DONE WITH [REDACTED]. BECAUSE
20 IT'S VERY CONCERNING, AND IT GOES TO OUR HEALTHY SKEPTICISM OF
21 WHAT WE ARE BEING TOLD IS OR IS NOT IN [REDACTED].

22 WE WANT VERIFICATION, WE ARE ASKING FOR SPECIFICS. AND
23 NOT THE WHOLE WORLD, BUT THIS LIMITED SET OF QUESTIONS.

24 THE COURT: ALL RIGHT.

25 OBVIOUSLY I SET THIS HEARING, YOU ALL CONTINUED YOUR

1 DISCUSSIONS, I DID SEE CALHOUN'S COMMENT IN THE MEET AND CONFER
2 PROCESS THAT IT WOULD HAVE MORE QUESTIONS, IT MIGHT HAVE BEEN
3 IN THE JOINT STATEMENT AS WELL.

4 LET ME JUST HEAR WHERE GOOGLE IS IN TERMS OF -- IN TERMS
5 OF THE CALHOUN LETTER OF FEBRUARY 6TH, IF ANYWHERE.

6 MS. TREBICKA OR MS. GAO?

7 MS. TREBICKA: SORRY, YOUR HONOR, IT TOOK ME A WHILE
8 TO UNMUTE.

9 MANY OF THE QUESTIONS IN THE FEBRUARY 6TH LETTER, WE ARE
10 PREPARING RESPONSES TO. MANY OF THEM, THOUGH, ALSO ARE REALLY
11 OUTSIDE OF THE SCOPE OF WHAT WE UNDERSTOOD THE PARTIES WERE
12 DISCUSSING AND MEETING AND CONFERRING OVER, WHICH IS LIMITED TO
13 THE MAPPING AND THE LINKING AND NOT WHAT OTHER INFORMATION MAY
14 BE FOUND IN THESE TABLES.

15 THIS IS -- THESE TABLES ARE NOT TO BE TREATED AS DATA
16 SOURCES TO BE MINED FOR ADDITIONAL PURPOSES. OUR UNDERSTANDING
17 WAS THAT YOUR HONOR WAS VERY CLEAR WHAT OUR DUTY WAS, WAS TO
18 MEET AND CONFER OVER THE MAPPING AND LINKING AND HOW IT MAY BE
19 DERIVED FROM THESE OTHER SOURCES THAT GOOGLE IS PRESERVING.

20 BUT YES, THERE ARE CERTAIN QUESTIONS HERE THAT, WE
21 APOLOGIZE YOUR HONOR, WE WEREN'T ABLE TO DO IT BEFORE THIS
22 HEARING, BUT THERE ARE CERTAIN OF THESE QUESTIONS THAT WE WILL
23 BE ABLE TO RESPOND TO.

24 THE COURT: OKAY.

25 AND WHEN DOES GOOGLE ANTICIPATE RESPONDING TO THE CALHOUN

1 FEBRUARY 6TH LETTER?

2 MS. TREBICKA: YOUR HONOR, I WOULD ALSO LIKE TO POINT
3 OUT THAT THE ANSWER TO THESE QUESTIONS WILL NOT CHANGE, WE
4 BELIEVE, THE BASIC DETERMINATION OF WHETHER OR NOT THE
5 UNDERLYING TABLES THAT WE HAVE EXPLAINED IN DETAIL AND THE
6 SOURCE CODE AND DERIVATION OF WHICH WE PROVIDED ARE SUFFICIENT,
7 THAT THE PRESERVATION IS SUFFICIENT.

8 THE COURT: I UNDERSTAND. I UNDERSTAND. YOU ARE NOT
9 CONCEDING ANYTHING, BUT WE ARE IN A PROCESS, I GET THAT.

10 MS. TREBICKA: YES, YOUR HONOR. I BELIEVE WE CAN DO
11 IT THIS WEEK.

12 MR. BARNES: YOUR HONOR, I HEARD MS. TREBICKA THAT
13 SHE THOUGHT SOME OF OUR QUESTIONS WERE OUTSIDE THE SCOPE.
14 OBVIOUSLY, I DISAGREE. THE COURT DOESN'T HAVE THE BENEFIT OF
15 OUR LETTER IN FRONT OF YOU OR THE PARTIES' BRIEFING ABOUT
16 WHETHER A QUESTION FITS WITHIN THE SCOPE.

17 THE COURT: I AM AWARE OF THAT, MR. BARNES.

18 MR. BARNES: WHAT DOES YOUR HONOR PROPOSE IF WE REACH
19 AN IMPASSE ON THAT? WE WOULD PREFER THAT GOOGLE SIMPLY ANSWER
20 THESE QUESTIONS, THEY ARE NOT COMPLICATED QUESTIONS.

21 THE COURT: I UNDERSTAND, MR. BARNES.

22 I'M NOT GOING TO -- YOU KNOW, I HAVEN'T SEEN THE LETTER.
23 AND I AM ALWAYS CONCERNED, AND I THINK THERE IS ALWAYS THE
24 TEMPTATION IN THIS CASE WHERE WE HAVE, AS I HAVE SAID IN MY
25 ORDERS, AN INFINITE OR AS NEAR AS ANY OF US CAN CONCEIVE OF AS

1 AN INFINITE AMOUNT OF DATA THAT IS AVAILABLE.

2 THERE IS ALWAYS -- THERE IS ALWAYS MORE DATA, AND OF
3 COURSE WE ARE WAY PAST THAT, WE ARE PAST IDENTIFYING AND
4 HARVESTING.

5 I AM GETTING FEEDBACK FROM SOMEBODY, SO IF YOU ALL PUT
6 YOURSELVES ON MUTE.

7 AND WE ARE WAY PAST THAT. WE OBVIOUSLY HAVE A VERY
8 COMPLEX AND INTRICATE PRESERVATION PLAN IN PLACE. AND THE
9 PRESERVATION OF THE MAPPING AND LINKING TABLES CAME UP AS WE
10 WERE PUTTING THE VERY FINISHING TOUCHES ON THE PRESERVATION
11 PLAN. AND THAT'S WHY I REGARD THIS AS STILL AN OPEN ISSUE, WE
12 DIDN'T HAVE A FULL BRIEFING AND VETTING, BUT WE ARE NOW WELL
13 INTO THAT PROCESS AND WE WILL SOON BE DONE WITH IT.

14 SO I UNDERSTAND, AND I WILL SEE AFTER I'VE HEARD ALL THE
15 ARGUMENT, AS TO WHAT, IF ANYTHING, I WANT TO SEE WITH REGARDS
16 TO THIS LATEST ROUND OF LETTERS.

17 MR. BARNES: WHAT I WAS GOING TO OFFER IS WE COULD
18 SUBMIT OUR LETTERS TO THE COURT. I AM HEARING YOU DON'T WANT
19 OUR LETTER RIGHT NOW, MAYBE WE WILL COME BACK IF THERE'S
20 FURTHER DISPUTE.

21 THE COURT: YES. YES, I UNDERSTAND. THERE'S THE
22 LETTER, YOU HAVE ADDITIONAL QUESTIONS, AND I'M SURE THE PARTIES
23 HAVE POSITIONS ON THAT.

24 OKAY. I THINK THEN WE CAN GO TO THE [REDACTED] TABLES.
25 AND AGAIN, I WOULD LIKE TO START WITH GOOGLE AND BE SURE I

1 UNDERSTAND GOOGLE'S POSITION AND THEN I WILL HEAR FROM CALHOUN.

2 LET ME JUST FIND MY SPOT IN MY NOTES.

3 OKAY. MS. TREBICKA?

4 MS. TREBICKA: YES, YOUR HONOR. THANK YOU.

5 YES. WHAT WE DEMONSTRATED IN THE LETTER AND ALSO IN THE
6 MEET AND CONFER THAT FOLLOWED, IS THAT ANY MAPPING IN THE

7 [REDACTED] TABLE THAT HELPED TO READ THE PRESERVED DATA, WILL
8 ALWAYS BE DUPLICATED IN THE SAMPLED PRESERVATION FROM THE

9 [REDACTED] LOGS THAT WE ARE PRESERVING IN BROWN.

10 WE ARE NOT PRESERVING ANY [REDACTED] LOGS IN CALHOUN, SO
11 THAT CASE IS SLIGHTLY DIFFERENTLY SITUATED, AND THAT'S BECAUSE
12 THE CALHOUN PLAINTIFFS DID NOT ASK FOR ANY OF THE [REDACTED]
13 LOGS TO BE PRESERVED.

14 I WILL SET THAT ASIDE FOR A MOMENT AND FOCUS ON BROWN.

15 THE COURT: YES, YOU ARE GOING TO HAVE TO SAY THAT
16 AGAIN WHEN WE GET TO CALHOUN.

17 MS. TREBICKA: YES, I KNOW, YOUR HONOR.

18 THE COURT: SO START, JUST TAKE ME BACK TO THE TOP
19 AGAIN, THAT ANY MAPPING INFORMATION IN THE [REDACTED] LOGS,
20 FINISH THAT SENTENCE.

21 MS. TREBICKA: SURE. SO ANY MAPPINGS IN THE
22 [REDACTED] TABLES.

23 THE COURT: TABLES. THANK YOU.

24 MS. TREBICKA: THE SUBJECT OF OUR MOTION, THAT HELP
25 TO READ THE PRESERVED DATA, WILL ALREADY BE DUPLICATED IN THE

1 SAMPLED PRESERVATION FROM THE [REDACTED] LOGS.

2 AND AS EVIDENCE, WE HAVE PROVIDED THE SREE POTHANA
3 DECLARATION, WHICH IN PARAGRAPH 6 OF THAT DECLARATION, EXPLAINS
4 THAT THE [REDACTED] TABLES ARE SOURCED FROM THE
5 [REDACTED] LOGS, AND THEREFORE PRESERVING THE LOGS WHICH ARE
6 INCLUDED IN THE SAMPLING PLAN, ALREADY PRESERVES THE NECESSARY
7 MAPPING TO READ THE DATA THAT'S BEING PRESERVED.

8 SEPARATELY --

9 THE COURT: I DID SEE THAT IN THE POTHANA DEC.

10 MS. TREBICKA: PARAGRAPH 6.

11 THE COURT: UH-HUH.

12 MS. TREBICKA: AND SEPARATELY, WE ALSO DEMONSTRATED
13 IN THE LETTER AND WALKED THROUGH IN THE MEET AND CONFER, THE
14 SAME CONCLUSION, BY COMPARING BOTH SIDES OF THE EQUATION, AS
15 YOUR HONOR PUT IT, THE [REDACTED] TABLES AND THE [REDACTED] LOGS.

16 SO FIRST, WE PRODUCED ENTRIES FROM THE [REDACTED] TABLES
17 THAT SHOW THAT THESE --

18 THE COURT: ARE WE ON THE JANUARY 26TH LETTER OR
19 31 -- OR 28TH?

20 MS. TREBICKA: YES, YOUR HONOR. JANUARY 26TH WOULD
21 BE THE MOST INFORMATIVE, BECAUSE IT CONTAINS THE --

22 THE COURT: IS IT REALLY THE 28TH? DID I MISSPEAK?
23 THE LETTER I HAVE SAYS THE 28TH.

24 MS. TREBICKA: IT SHOULD BE THE 26TH, YOUR HONOR.
25 IT'S PAGE 4.

1 MR. MCGEE: I THINK, IF HELPFUL, THAT'S EXHIBIT 2 TO
2 THE TREBICKA DECLARATION, JUDGE.

3 THE COURT: OKAY.

4 MR. MCGEE: THAT IS THE JANUARY 26TH.

5 THE COURT: OKAY. I THOUGHT I HAD IT. I DON'T HAVE
6 IT RIGHT IN FRONT OF ME, BUT --

7 MS. TREBICKA: WE WOULD BE HAPPY TO SCREEN SHARE. I
8 THINK MS. GAO IS SET UP FOR SCREEN SHARE, IF THAT WOULD BE
9 HELPFUL.

10 THE COURT: WELL, WHY DON'T YOU TELL ME FIRST WHAT
11 YOU THINK IT'S GOING TO SHOW ME BEFORE WE GO THERE.

12 MS. TREBICKA: SURE.

13 PAGE 4, BOTTOM HALF OF PAGE 4 OF THE JANUARY 26TH LETTER
14 SHOWS SAMPLES, ENTRIES FROM THE [REDACTED] TABLES THAT SHOWS
15 THAT THESE TABLES CONTAINED THE FOLLOWING MAPPINGS, UID OR
16 BISCOTTI OR UID OR CID TO DEVICE ID. AND WE HAVE A COLOR-CODED
17 VERSION OF THESE SAMPLE ENTRIES.

18 THE COURT: I HAVE THAT RIGHT HERE.

19 MS. TREBICKA: IN THE LETTER.

20 THE COURT: UH-HUH. YES. I KNEW I HAD BEEN THROUGH
21 THIS IN SOME DETAIL, I JUST HAD -- I OVERLOOKED IT.

22 GO AHEAD. I'M WITH YOU.

23 MS. TREBICKA: SO BOTTOM OF PAGE 4, YOUR HONOR, THE
24 FIRST SAMPLE IS -- AND YOUR HONOR MAY DISREGARD THE RED BOX
25 AROUND IT, THAT JUST MEANS THAT IT'S REDACTED OR THAT IT'S

1 CONFIDENTIAL. SO IT'S NOT LIKE THIS IS ONE ENTRY AND THEN A
2 SEPARATE ENTRY ON THE FOLLOWING PAGE.

3 THE COURT: UNDERSTOOD, YEAH.

4 MS. TREBICKA: SO THE ENTRY STARTS WITH THE
5 HIGHLIGHTED QUOTES, AND ONE, AND THEN ENDS WITH THE BRACKET ON
6 THE FOLLOWING PAGE.

7 THE COURT: RIGHT.

8 MS. TREBICKA: AFTER THE GREEN HIGHLIGHT.

9 SO WHAT THIS SHOWS IS THAT, AND WHAT WE EXPLAIN IN THE
10 LETTER AND WE EXPLAINED AT THE MEET AND CONFER, IS THAT THE
11 YELLOW HIGHLIGHTED IS A STRING THAT REPRESENTS A COMBINATION OF
12 ID'S CORRESPONDING TO THE PROPERTY, THE GA4 CLIENT, AND CID,
13 THAT'S THE CUSTOMER ID. AND THE CID IS A RANDOMLY GENERATED
14 FIRST-PARTY COOKIE BY GOOGLE ANALYTICS. IT'S RANDOMLY
15 GENERATED, IT'S A FIRST-PARTY COOKIE.

16 THE GREEN, FOLLOWING A FEW LINES DOWN ON THE NEXT PAGE, IS
17 THE USER ID FIELD, AND THAT CONTAINS THE BISCOTTI.

18 THE COURT: RIGHT.

19 MS. TREBICKA: SO THAT'S ONE SAMPLE.

20 THE NEXT SAMPLE, WE WANTED TO PROVIDE A FEW FOR
21 ILLUSTRATION PURPOSES, THE NEXT SAMPLE STARTS WITH THE ORANGE.
22 AND THE ORANGE HIGHLIGHTED IS AN ENCODED STRING THAT REPRESENTS
23 AGAIN, A COMBINATION OF ID'S CORRESPONDING TO EACH GA4 CLIENT
24 AND THE UID. THE UID IS AN ID THAT'S ASSIGNED BY THE ANALYTICS
25 CUSTOMER. GOOGLE DOESN'T ASSIGN, IT'S ASSIGNED BY THE

1 CUSTOMER, AND IT'S UNIQUE TO THE PROPERTY. IT'S NOT SO THE
2 *NEW YORK TIMES* WILL HAVE ITS OWN UID FOR A PARTICULAR USER AND
3 *THE WASHINGTON POST*, SHOULD THEY BOTH USE GOOGLE ANALYTICS,
4 WOULD HAVE A DIFFERENT COMPLETELY SEPARATE UID. THAT IS
5 HIGHLIGHTED HERE IN ORANGE.

6 WHAT'S HIGHLIGHTED IN GREEN, DOWN BELOW, IS THE USER ID,
7 WHICH AGAIN IS THE -- CONTAINS THE BISCOTTI COOKIE.

8 THE COURT: UH-HUH.

9 MS. TREBICKA: SO THIS -- SO WHAT WE'VE DONE HERE IS
10 DEMONSTRATE WHAT IS ON ONE SIDE OF THE EQUATION, OF THE
11 [REDACTED] TABLES THAT ARE THE SUBJECT OF OUR MOTION.

12 FOR ONE OF THE TABLES, THERE ARE [REDACTED] TABLES AT
13 ISSUE. WE HAVE DONE THE SAME ON THE NEXT PAGE OF THAT LETTER,
14 PAGE 6, FOR THE NEXT GOOGLE [REDACTED] TABLE, THE
15 [REDACTED] TABLE.

16 THE COURT: RIGHT.

17 MS. TREBICKA: AND I WILL NOT WALK THROUGH IT, BUT
18 IT'S THE SAME ID. THE ONE -- THE ORANGE HIGHLIGHT IS
19 ESSENTIALLY THE CID, BUT ALSO INCLUDING A CORRESPONDING --

20 THE COURT: THE ENCODED -- YEAH.

21 MS. TREBICKA: CORRECT.

22 AND THEN THE BLUE, UNDER USER ID, IS THE BISCOTTI.

23 THE COURT: UH-HUH.

24 MS. TREBICKA: SO THE OTHER SIDE OF THE EQUATION HAS
25 THE PRESERVED DATA, THE DATA FROM WHICH WE ARE SAMPLING AND

1 PRESERVING.

2 TO SHOW THAT SIDE OF THE EQUATION, WE HAVE OFFERED TWO
3 THINGS, TWO PIECES OF EVIDENCE. THE FIRST IS THE NAMED
4 PLAINTIFF'S DATA THAT WE HAVE ALREADY PRODUCED IN THIS ACTION.
5 THEY ARE PRODUCED IN THE EXCEL FORMAT. I HAVE THEM HERE AS
6 EXCEL, BUT WE'VE ALSO INCLUDED THEM IN MY DECLARATION IN THE
7 PRIOR BRIEFING.

8 AND WHAT THEY SHOW IS THAT THESE, THE VERY SAME [REDACTED]
9 LOGS FROM WHICH WE ARE PRESERVING, ALSO CONTAIN THE SAME
10 MAPPING OF UID, BISCOTTI AND CID.

11 IN ADDITION TO THAT, WHAT WE OFFERED IS TO HAVE THE BROWN
12 PLAINTIFFS PROVIDE US WITH DATA OR WITH CID'S FROM THEIR
13 EXPERTS AND CONSENT FOR THE DATA TO BE SHARED, AND THEN WE
14 WOULD BE SEARCHING THOSE CID'S IN THE [REDACTED] LOGS AND
15 PRODUCING THOSE ENTRIES FOR AN AGREED UPON PERIOD OF TIME.

16 THIS IS A METHOD YOUR HONOR MAY RECALL WE HAD USED IN THE
17 PAST TO SEARCH AND PRODUCE THIS TYPE OF DATA, AND WE THINK
18 WOULD WORK VERY WELL HERE TO DEMONSTRATE THAT ONE SIDE OF THE
19 EQUATION CONTAINS THE SAME MAPPING AS THE OTHER SIDE OF THE
20 EQUATION, BUT REGRETTABLY, PLAINTIFFS HAVE NOT RESPONDED TO
21 THAT OFFER.

22 THE COURT: AND THAT IS, I THINK YOU ARTICULATED THAT
23 IN THE JOINT STATEMENT, IF I'M REMEMBERING CORRECTLY; IS THAT
24 RIGHT?

25 MS. TREBICKA: YOUR HONOR, I BELIEVE WE DID INCLUDE

1 THAT OFFER THERE, YES.

2 THE COURT: YES, UNDER THE PROPOSED -- OH, NO, NO,
3 NO, NO, WHERE WAS THAT?

4 MS. TREBICKA: I'M PRETTY SURE -- LET ME FIND IT,
5 YOUR HONOR.

6 THE COURT: OKAY.

7 ALL RIGHT. LET ME HEAR FROM BROWN IN RESPONSE TO GOOGLE'S
8 POSITION ON THE [REDACTED] TABLES.

9 MR. MCGEE: SURE, JUDGE.

10 OUR RESPONSE KIND OF MIRRORS RELATION, ABSENT, OBVIOUSLY,
11 THE [REDACTED] ISSUE, BUT ALL OF THE QUESTIONS THAT REMAIN.

12 TO ADDRESS THE OFFER FROM GOOGLE, THE OFFER ONLY OFFERED
13 TO DRAW FROM AND PRODUCE FROM DATA SOURCES THAT WERE AT ISSUE
14 IN THE SPECIAL MASTER PROCESS.

15 I AM TRYING MY BEST TO PULL UP THE E-MAIL RIGHT NOW,
16 JUDGE, BUT MY COMPUTER AND MY LAPTOP IS AT ITS WIT'S END WITH
17 EVERYTHING GOING ON. BUT I KNOW THAT WE E-MAILED GOOGLE AND WE
18 DISCUSSED IT WITH OUR CONSULTANTS, TO CLARIFY, AND THEIR OFFER
19 WAS NOT TO PRODUCE FROM THE [REDACTED] TABLE.

20 THE COURT: HOLD ON ONE SECOND, MR. MCGEE.

21 MS. TREBICKA, WOULD YOU MUTE?

22 MS. TREBICKA: YES, YOUR HONOR. I APOLOGIZE.

23 THE COURT: FOR SOME REASON THAT CREATES AN
24 INTERFERENCE.

25 OKAY. GO AHEAD, MR. MCGEE. REPEAT THAT LAST PART.

1 MR. MCGEE: SURE.

2 SO THE OFFER FROM GOOGLE, AS I AM RECALLING THIS, WAS THAT
3 THEY WOULD ESSENTIALLY RECREATE THE SPECIAL MASTER PROCESS, BUT
4 THEY WOULD PRODUCE NOTHING FROM THOSE [REDACTED]
5 TABLES WITH THAT SAME INFORMATION THAT WE WOULD HAVE DRAWN FROM
6 OUR CONSULTANTS, CONSENTED TO DRAWING IT FROM GOOGLE SOURCES,
7 SO THERE'S NO ISSUES WITH THE LEGAL ISSUES THAT THEY HAVE
8 IDENTIFIED IN THAT PROCESS, BUT THAT ESSENTIALLY WE WOULD GET
9 THE DATA FROM THOSE [REDACTED] UNDERLYING SOURCES, BUT WE WOULD NOT
10 SEE HOW THAT DATA IS EVENTUALLY REPRESENTED IN THE [REDACTED]
11 TABLES.

12 SO THAT THIRD PIECE OF, WE'VE GOT SIDE A, WE'VE GOT SIDE
13 B, AND THOSE ARE A PLUS B EQUALS C, IN THE [REDACTED] TABLE, BUT
14 THEY WOULD NOT PRODUCE C, SO THAT WE COULD SEE, HERE'S HOW IT'S
15 REPRESENTED IN THE [REDACTED] TABLE OF DRAWING FROM SOURCE A AND
16 SOURCE B, THAT THEY WOULD ONLY PRODUCE FROM SOURCES A AND B AND
17 UNDERLIE AND FEED THE [REDACTED] TABLE, BUT THEY WOULD NOT
18 PRODUCE WHAT WAS FULLY REPRESENTED IN THE [REDACTED] TABLE BASED
19 ON THOSE IDENTIFIERS.

20 SO WE THOUGHT IT WAS JUST A DUPLICATIVE PROCESS AND THAT
21 WE WOULDN'T GAIN ANY ADDITIONAL INFORMATION OR INSIGHT INTO
22 WHAT IS ACTUALLY STORED IN THE [REDACTED] TABLE ITSELF.

23 THE COURT: LET ME JUST INTERRUPT THERE, MR. MCGEE.

24 I SEE THE OFFER FROM GOOGLE IS ARTICULATED IN THE
25 JANUARY 28TH LETTER, AT LEAST THAT'S WHERE I SEE IT.

1 MR. MCGEE: YES, YOUR HONOR.

2 THE COURT: 848-6. SO LET ME JUST GET CAUGHT UP TO
3 YOUR -- THE STATEMENT YOU JUST MADE.

4 MR. MCGEE: SO I BELIEVE THAT STATEMENT, THE
5 DISCUSSION, I DON'T KNOW IF IT'S REPRESENTED IN THE EXCHANGE
6 BETWEEN -- IT'S NOT -- BETWEEN MYSELF AND MS. GAO.

7 BUT I KNOW THAT WE DID HAVE AN E-MAIL ON THAT, YOUR HONOR.
8 I CAN FIND THAT E-MAIL. BECAUSE WE DID HAVE A DISCUSSION WITH
9 OUR CONSULTANTS, AND THE CONSENSUS WITH THE CONSULTANTS WAS IF
10 THEY ARE NOT GOING TO PRODUCE WHAT'S IN THE [REDACTED] TABLES
11 THEMSELVES, THEN PRODUCING THE DATA THAT UNDERLIES THEM DOES
12 NOT FULLY ILLUMINATE THE ISSUE FOR US. AND WE, AGAIN, STILL
13 WOULD NOT KNOW WHAT WOULD BE REPRESENT INDEED THAT TABLE
14 DIFFERENTLY FROM THE SOURCES THAT FEED IT.

15 SO AGAIN THE A PLUS B EQUALS C, WE KNOW WHAT A AND B ARE,
16 BUT WE WOULDN'T KNOW WHAT C WAS. AND C IS WHAT'S ACTUALLY IN
17 THE [REDACTED] TABLE, THAT WAS NOT PART OF GOOGLE'S OFFER WITH
18 THAT PROCESS THAT WAS DESCRIBED.

19 THE COURT: ALL RIGHT. ALL RIGHT.

20 SO IT SOUNDS LIKE, FROM THE BROWN PLAINTIFFS' PERSPECTIVE,
21 THE ISSUE IS WITH REGARDS TO ADEQUATE DEMONSTRATION OF WHAT'S
22 IN THE [REDACTED] TABLES -- WHAT IS ALREADY DUPLICATED IN THE
23 [REDACTED] LOGS, WHICH ARE BEING PRESERVED. AND THIS PROFFER
24 FROM GOOGLE, YOU DON'T FEEL IS ADEQUATE, BECAUSE IT DOESN'T --
25 BECAUSE IT DOESN'T SHOW ACTUALLY WHAT'S IN THE TABLES.

1 MR. MCGEE: THE TABLES. YES, YOUR HONOR. CORRECT.

2 THE COURT: ALL RIGHT.

3 MS. TREBICKA: I WOULD LIKE TO RESPOND, YOUR HONOR,
4 BECAUSE I THINK WHAT'S BEING MISSED HERE IS THAT WE HAVE
5 PROVIDED INFORMATION ON WHAT IS IN THE [REDACTED] TABLES BY
6 PROVIDING THE MAPPING AND LINKING THAT IS CONTAINED IN THE
7 [REDACTED] TABLES.

8 AND THAT'S WHAT IS AT ISSUE HERE, THE MAPPING AND LINKING.
9 SO WE HAVE PROVIDED THAT. THE IMPORTANT POINT HERE IS WHAT
10 DEVICES AND ID'S ARE MAPPED OR LINKED TO EACH OTHER. THAT IS
11 VERY PLAIN IN WHAT WE HAVE PRODUCED FROM THE [REDACTED] TABLES.

12 WHAT WE ARE NOW OFFERING IS PROVIDING ADDITIONAL
13 INFORMATION ON THE DEVICES OR ID'S THAT ARE FOUND IN THE
14 [REDACTED] LOGS.

15 I THINK WHAT I'M HEARING, MR. MCGEE, IS THAT THEY WOULD
16 LIKE THE VERY SAME CID TO BE FOUND -- TO BE SOURCED FROM OR
17 TAKEN FROM THE [REDACTED] LOGS, AND THEN THE VERY SAME CID FROM
18 THE [REDACTED] TABLES.

19 THE WAY THAT THESE TABLES ARE KEPT, I'M NOT EVEN SURE THAT
20 SOMETHING THAT IS DOABLE, THAT IS ONE OF THE REASONS THAT THESE
21 TABLES ARE SO LARGE. AND WE HAVE COME TO YOUR HONOR FOR
22 RELIEF, GIVEN THAT ALL THE MAPPING AND LINKING, THE RELEVANT
23 POINT HERE IS SOURCE FROM THE [REDACTED] LOGS. AND GIVEN THAT
24 WE HAVE PROVIDED PROOF AND DEMONSTRATION THAT THE ID'S THAT ARE
25 MAPPED AND LINKED ARE THE VERY SAME ON THE ONE SIDE OF THE

1 EQUATION AS THE OTHER SIDE, I DON'T THINK IT'S NECESSARY TO
2 FIND THE VERY SAME EVENT, WHICH I DON'T EVEN KNOW IF IT'S
3 POSSIBLE, AND DEMONSTRATE THAT IT'S FOUND IN BOTH. THAT IS NOT
4 NECESSARY, GIVEN WHAT WE HAVE SHOWN.

5 AND I WOULD ALSO LIKE TO RESPOND TO SOMETHING MR. MCGEE
6 SAID IN THE BEGINNING, WHICH IS THE FACT THAT THESE MAPPING OR
7 LINKING TABLES ARE NOW -- THEY DON'T KNOW WHAT'S IN THEM, WHAT
8 ADDITIONAL INFORMATION IS IN THEM.

9 BECAUSE THE REASON THAT WE ARE PRESERVING MAPPING AND
10 LINKING TABLES, IS BECAUSE YOUR HONOR FOUND PERSUASIVE DURING
11 THE SPECIAL MASTER PROCESS, PLAINTIFF'S ARGUMENT THAT SURE, WE
12 ARE PRESERVING CERTAIN DATA, BUT WE NEED TO BE ABLE TO HAVE THE
13 KEYS TO UNDERSTAND IT. WE NEED TO HAVE THESE MAPPING AND
14 LINKING TABLES THAT WILL HELP US READ THE DATA ONCE WE HAVE
15 CERTAIN ID'S FROM NAMED PLAINTIFFS OR OTHERWISE. THAT IS WHY
16 WE ARE HERE.

17 AND WHAT WE ARE DEMONSTRATING IS THAT THESE MAPPING AND
18 LINKING TABLES ARE NOT EVEN NECESSARY TO THE TASK FOR WHICH
19 THEY WERE INITIALLY IDENTIFIED.

20 SO I THINK THAT'S SOMETHING IMPORTANT THAT WE CAN'T
21 FORGET. WITH THESE [REDACTED] TABLES, THOUGH, WE DON'T EVEN NEED TO
22 GET THERE BECAUSE WE HAVE DEMONSTRATED THAT THEY ARE ALREADY
23 BEING PRESERVED, THE MAPPING AND LINKING.

24 THE COURT: I UNDERSTAND. I UNDERSTAND THEY ARE
25 ALREADY PRESERVED.

1 OKAY. ALL RIGHT. WHAT ABOUT THE [REDACTED] TABLES AS IT
2 RELATES TO CALHOUN? IS IT A DIFFERENT ISSUE THERE,
3 MS. TREBICKA?

4 MS. TREBICKA: YES, YOUR HONOR.

5 YES, IT IS SLIGHTLY DIFFERENT, BECAUSE AGAIN, STARTING
6 FROM THE REASON OF EXISTENCE FOR THIS INQUIRY IN THE FIRST
7 PLACE, WHICH IS IDENTIFYING AND PRESERVING MAPPING TABLES THAT
8 WILL HELP US READ THE DATA THAT WE ARE PRESERVING, THESE [REDACTED]
9 [REDACTED] TABLES DO NOT HELP US READ OR IDENTIFY OR
10 UNDERSTAND ANY OF THE DATA THAT'S BEING PRESERVED IN CALHOUN,
11 BECAUSE THE PLAINTIFFS IN CALHOUN DID NOT SELECT ANY OF THE
12 [REDACTED] LOGS FOR PRESERVATION.

13 THERE ARE NO [REDACTED] LOGS BEING CURRENTLY PRESERVED IN
14 THE CALHOUN PRESERVATION PLAN. AND THERE'S NO OBJECTION OR
15 DOUBT AS TO THAT, THAT'S UNDISPUTED. THE PRESERVED DATA
16 SOURCES THAT RELATE TO GOOGLE ANALYTICS ARE GOOGLE ACCOUNT KEY
17 DATA, GAIA KEY DATA IN THE [REDACTED] SOURCES. AND THE [REDACTED]
18 MAPPING TABLES THAT ARE AT ISSUE FOR THIS HEARING, DO NOT HAVE
19 GAIA KEYED INFORMATION, THEY ARE RELATED TO UNAUTHENTICATED
20 INFORMATION. THEREFORE, THE MAPPING TABLES IN CALHOUN ARE NOT
21 NECESSARY, THEY ARE ENTIRELY IRRELEVANT TO THE PRESERVED DATA.

22 THE COURT: OKAY.

23 MR. BARNES?

24 MR. BARNES: WELL, FIRST LET ME GO BACK TO THE SORT
25 OF TRUST THE PROCESS ARGUMENT, IN THAT WE'VE GOT CERTAIN

1 QUESTIONS PENDING TO GOOGLE THAT WE WOULD LIKE ANSWERS TO.

2 MS. TREBICKA STATED JUST BEFORE SHE GOT TO THE CALHOUN
3 ISSUE, THAT THE COURT ENTERED THE MAPPINGS ORDER TO ENSURE THAT
4 THE PLAINTIFFS HAD THE KEYS TO UNDERSTAND THE DATA AT ISSUE.

5 THE IDENTIFIERS WE ARE TALKING ABOUT HERE GO TO LOGS. I
6 BELIEVE I HEARD MS. TREBICKA TALKING ABOUT BISCOTTI BEING USED
7 ACROSS DIFFERENT LOGS.

8 I THINK WE'VE GOT SOME EVIDENCE OF -- SOME, WE DO HAVE
9 SOME EVIDENCE OF CID VALUES CAN BE ASSOCIATED WITH GAIA, VALUES
10 ELSEWHERE. OF COURSE, IF IN ANSWERING OUR QUESTIONS, WE THINK
11 THERE IS NON-DUPLICATION, WE WILL BE FINE WITH NOT PRESERVING
12 NON-DUPLICATION. BUT WE WANT -- WE HAVE SOME ADDITIONAL
13 QUESTIONS TO MAKE CERTAIN ARE ANSWERED BEFORE WE CAN JUST AGREE
14 TO THE DELETION OF THE, POTENTIALLY, RELEVANT DATA THAT'S BEEN
15 ORDERED TO BE PRESERVED.

16 THE COURT: IS THAT -- ARE THESE QUESTIONS ALSO IN
17 YOUR LETTER THAT WE TALKED ABOUT EARLIER?

18 MR. BARNES: YEAH. WE HAVE A COUPLE QUESTIONS
19 RELATING TO ANALYTICS, CORRECT.

20 THE COURT: OKAY.

21 OBVIOUSLY I WILL -- WELL, I STRONGLY SUSPECT I WILL SEE
22 THE LETTER IN DUE COURSE. HOW MANY QUESTIONS ARE IN YOUR
23 LETTER, MR. BARNES?

24 MR. BARNES: THERE ARE --

25 MS. TREBICKA: 19 QUESTIONS, YOUR HONOR.

1 THE COURT: MS. TREBICKA, I HAD IT RIGHT HERE.

2 MR. BARNES: 19. SHE BEAT ME TO MY OWN LETTER. 19.

3 I THINK THE FIRST 8 WOULD BE WHAT I CALL CONFIRMATION
4 QUESTIONS, AND THEN THE OTHER 11, I THINK, ARE FAIRLY SIMPLE.

5 THE COURT: I AM SURE YOU DO, MR. BARNES.

6 MR. BARNES: HOW LONG WAS THE [REDACTED] MAPPINGS
7 PRESERVED?

8 THE COURT: ALL RIGHT. WE ARE NOT GOING TO ARGUE
9 ABOUT IT NOW.

10 OKAY. SO IT SOUNDS LIKE CALHOUN'S POSITION IS AS IT WAS
11 WITH REGARDS TO THE [REDACTED] TABLES, WHICH IS IT NEEDS
12 MORE INFORMATION, AND IT HAS ARTICULATED WHAT IT BELIEVES IT
13 NEEDS IN THIS LETTER, AND YOU AWAIT GOOGLE'S RESPONSE; IS THAT
14 FAIR?

15 MR. BARNES: THAT IS FAIR.

16 WE REMAIN OPEN TO ANY CONVERSATION GOOGLE WANTS TO HAVE IN
17 ENSURING NO DUPLICATION AND LOWERING ITS BURDEN, NOT JUST ON
18 THIS, BUT ON ANY OTHER. BUT ALL GOOGLE HAS TO DO IS BE
19 TRANSPARENT ABOUT WHAT IS BEING PRESERVED AND NOT BEING
20 PRESERVED.

21 THE COURT: OKAY. ALL RIGHT.

22 AND MS. TREBICKA, I UNDERSTAND AND I ANTICIPATE GOOGLE'S
23 RESPONSE IS THAT IT'S RESPONDING TO SOME OF THOSE QUESTIONS,
24 AND SOME IT WILL FIND TO BE OUT OF THE SCOPE OF THIS COURT'S
25 PREVIOUS ORDER; IS THAT FAIR?

1 MS. TREBICKA: YOUR HONOR, YES.

2 AND ONE OF THE QUESTIONS, JUST AS AN EXAMPLE, IS WHAT
3 SPECIFICALLY IS UNIQUELY CONTAINED IN [REDACTED] MAPPING
4 TABLES BUT NOT IN THE OTHER PRESERVED DATA SOURCES THAT WOULD
5 NOT BE PRESERVED IF THE TABLES ARE NOT PRESERVED?

6 WE BELIEVE THAT IS OUTSIDE OF THE SCOPE

7 THE COURT: I UNDERSTAND.

8 I'M NOT -- AGAIN, I'M -- I WAS JUST TRYING TO CLARIFY
9 WHERE EVERYBODY IS, OBVIOUSLY I HAVEN'T SEEN THE INQUIRY.

10 ALL RIGHT. THIS HAS BEEN VERY HELPFUL, AND IT DOES, I
11 THINK, MIRROR VERY MUCH THE PARTIES' BACK AND FORTH, WHICH I
12 HAVE BEEN THROUGH WITH SOME CARE IN THE LETTERS, AND
13 IMPORTANTLY IN THE MEET AND CONFER.

14 IT SEEMS THAT AS TO -- WELL, I DON'T KNOW THE ANSWER TO
15 THIS QUESTION, SO I WILL ASK IT, BUT I WOULD EXPECT THAT
16 CALHOUN'S FURTHER INQUIRY IS OF INTEREST OR MAY HAVE SOME
17 OVERLAP WITH BROWN'S CONCERNS AS WELL, OR ARE THEY MORE UNIQUE?

18 MR. MCGEE OR MR. BARNES?

19 MR. BARNES: I DON'T KNOW THAT MR. MCGEE HAS SEEN OUR
20 LETTER, SO IT'S HARD FOR HIM TO SAY, AND IT'S HARD FOR ME TO
21 SPEAK FOR HIM. BUT IT DOES RAISE ANOTHER ISSUE.

22 WE ASKED GOOGLE FOR SOME CROSS-SHARING OF INFORMATION
23 RELATING TO THIS DISPUTE AND THE NAMED PLAINTIFF DATA PROCESS.
24 YOU RECALL YOUR HONOR SAID AT THE LAST HEARING, EVERYTHING
25 SHOULD BE ON THE TABLE BETWEEN THE TWO CASES SO THAT EVERYONE

1 IS WORKING ON THE SAME PAGE.

2 GOOGLE DID NOT PROVIDE THE INFORMATION WE REQUESTED
3 RELATING TO THE BROWN SIDE OF THE DISPUTE. AND AGAIN, I DON'T
4 KNOW WHAT WAS GOING ON ON THE BROWN SIDE, MR. STRAITE SENT THAT
5 E-MAIL, MR. STRAITE DEALT WITH THAT ISSUE. BUT WE'VE KIND OF
6 STILL BEEN SILOED A LITTLE BIT IN HAVING THESE DISCUSSIONS WITH
7 GOOGLE AND IT'S A LITTLE BIT FRUSTRATING.

8 THE COURT: WELL, THE PARTIES ALL MET AND CONFERRED
9 TOGETHER IN RESPONSE TO MY ORDER.

10 MR. MCGEE?

11 MR. MCGEE: WE HAD THE JOINT MEET AND CONFER,
12 YOUR HONOR, WE BROUGHT OUR CONSULTANTS, CALHOUN BROUGHT THEIR
13 CONSULTANTS.

14 THE COURT: I'VE HEARD THIS PART OF THE STORY,
15 MR. MCGEE.

16 MR. MCGEE: MY APOLOGIES, JUDGE.

17 BUT AFTER THE 28TH, EVERYTHING WENT BACK TO THESE SILOS,
18 AS MR. BARNES DESCRIBES IT. AND I SEE MR. STRAITE HAS COME ON.
19 HE CAN ANSWER ANY QUESTIONS YOU HAVE.

20 THE COURT: THAT'S ALL RIGHT. THAT'S ALL RIGHT.

21 MS. TREBICKA?

22 MS. TREBICKA: YOUR HONOR, WE HAVE PROVIDED ALL THE
23 BRIEFING THAT IS RELATED TO THIS ISSUE, EVEN THOUGH IT WAS
24 MOSTLY DUPLICATIVE. ALL THE DECLARATIONS WERE FILED IN BOTH
25 CASES. I THINK WHERE THE DISPUTE IS, IS WHETHER GOOGLE NEEDS

1 TO SHARE THE ENTIRETY OF THE SPECIAL MASTER PROCESS, EVIDENCE,
2 AND EXCHANGES, AND ET CETERA, THAT HAD OCCURRED IN BROWN, IF
3 NOT DUPLICATIVE IN CALHOUN, WITH CALHOUN AT THIS POINT.

4 AND WE THOUGHT THAT THAT WAS NOT PART OF WHAT WAS -- AND
5 SCOPE, AGAIN FOR THIS HEARING, AND NOT WHAT YOUR HONOR HAD
6 INTENDED WHEN YOU ASKED US TO SHARE AT THE BRIEFING WITH
7 RESPECT TO THIS ISSUE.

8 THE COURT: OKAY. I'M NOT SURE HOW THE REACH BACK TO
9 THE ENTIRE SPECIAL MASTER PROCESS FACTORS IN. I APPRECIATE
10 HISTORY ALWAYS INFORMS THE PRESENT, BUT I AM LOOKING AT THIS
11 FROM WHERE WE ARE AND GOING FORWARD.

12 IT WOULD SEEM -- I THINK IT WOULD BE HOPEFUL, I UNDERSTAND
13 THE ISSUES, I UNDERSTAND THE PARTIES' POSITIONS, I AM FORMING
14 SOME VIEWS ON THOSE. I THINK IT WOULD BE HELPFUL, MY THOUGHT
15 IS WITH REGARDS TO THE CALHOUN LETTER, THAT GOOGLE RESPOND TO
16 THAT, AND THAT EACH SIDE THEN, AND LET ME JUST TALK IN THE
17 CALHOUN CONTEXT FOR A MOMENT, THEN WE'LL SET A DATE AND EACH
18 SIDE CAN SEND ME THE LETTER AND THE RESPONSE AND THEIR
19 RESPECTIVE POSITIONS IN JUST A FEW PAGES, SO I CAN JUST GET A
20 SENSE OF WHERE THAT FALLS IN MY CURRENT EVALUATION OF THE
21 ISSUES BEFORE ME.

22 MR. BARNES: THAT MAKES -- OH.

23 THE COURT: AND WHERE I'M HEADED IS, IS THERE A
24 REASON NOT TO SHARE THAT PROCESS OR TO BRING BROWN INTO THAT
25 PROCESS? THAT IS, THAT THEY CAN SEE THE LETTER, THEY CAN SEE

1 GOOGLE'S RESPONSE, AND IF THERE ARE ISSUES THERE THAT RELATE TO
2 THEM, THEY CAN ALSO HAVE A SHORT OPPORTUNITY TO ADDRESS THOSE.

3 SO LET ME HEAR FIRST FROM MR. BARNES, IT'S HIS LETTER, AND
4 THEN I WILL HEAR FROM YOU, MS. TREBICKA.

5 MR. BARNES: THAT MAKES SENSE TO US. WE SEE NO
6 REASON NOT TO SHARE IT WITH BROWN.

7 I DO WANT TO MAKE A RECORD, I BELIEVE MR. STRAITE WOULD
8 TELL YOU, I UNDERSTAND YOU DON'T WANT TO HEAR THE WHOLE RECORD,
9 WE DID NOT REQUEST EVERYTHING EVER PRODUCED IN THE SPECIAL
10 MASTER PROCESS.

11 THE COURT: OKAY. I AM NOT GOING THERE AN WAY,
12 MR. BARNES, SO --

13 MR. BARNES: I UNDERSTAND. I JUST WANTED TO MAKE
14 CLEAR FOR THE RECORD THAT WE DISAGREE WITH THAT
15 CHARACTERIZATION OF OUR REQUEST. WE THINK WHAT YOUR HONOR HAS
16 OUTLINED IS A SMART PLAN TO GO FORWARD.

17 THE COURT: MS. TREBICKA? I HAVEN'T SEEN THE LETTER,
18 SO LET ME KNOW IF YOU HAVE SOME CONCERNS WITH THAT APPROACH.

19 MS. TREBICKA: NO, YOUR HONOR. WE HAVE NO OBJECTION
20 TO SHARING OUR RESPONSE TO THE CALHOUN LETTER WITH THE BROWN
21 PLAINTIFFS. AND WE HAVE, THROUGHOUT THIS PROCESS, STARTING
22 FROM THE JANUARY 10TH HEARING, WE HAVE BEEN SHARING EQUALLY
23 WITH THE PARTIES.

24 THE COURT: THAT CERTAINLY IS MY TAKEAWAY FROM ALL OF
25 THE PAPERS THUS FAR.

1 SO LET'S DO THAT. MR. BARNES, SEND A COPY OF YOUR LETTER
2 TO MR. MCGEE, IF YOU HAVEN'T ALREADY, AND MS. TREBICKA,
3 GOOGLE'S RESPONSE BY THE END OF THE WEEK.

4 MS. TREBICKA: YES, YOUR HONOR.

5 THE COURT: THAT'S WHAT YOU HAD REPRESENTED EARLIER,
6 SO LET'S GET GOOGLE'S RESPONSE, IT COULD BE DIRECTED TO BOTH
7 PARTIES, ON THE 17TH.

8 AND THEN I WOULD LIKE TO HEAR FROM BOTH SIDES BY THE -- I
9 CAN HEAR FROM EACH PARTY WITH REGARDS TO WHAT HAS AND HASN'T --
10 WELL, YOUR RESPECTIVE POSITIONS WITH REGARDS TO THE QUESTIONS
11 ASKED AND ANSWERED. I WANT YOU TO DO THAT IN NOT MORE THAN
12 FIVE PAGES. I WILL TAKE THAT ON THE 24TH.

13 THE BRIEFING ON THE NEXT BROWN MOTION IN FRONT OF ME IS
14 CLOSED. SHE SAID HOPEFULLY. AND I AM NOT SURE, IN BROWN, WHAT
15 YOUR REMAINING SCHEDULE IS IN FRONT OF JUDGE GONZALEZ ROGERS.
16 SO LET ME KNOW IF THIS IS ON TOP OF SOME OTHER BRIEFING
17 OBLIGATION, IS WHERE I'M HEADED.

18 MR. BARNES: YOUR HONOR, MAY I CLARIFY?

19 DO YOU MEAN FIVE PAGES FROM EACH PARTY OR FIVE --

20 THE COURT: YES, YES, YES, BECAUSE YOU HAVE DISTINCT
21 ISSUES.

22 MR. BARNES: OKAY.

23 MR. MCGEE: YES, JUDGE.

24 WE DID HAVE THE CASE MANAGEMENT CONFERENCE THIS MORNING
25 AND WE DID LAY OUT SUMMARY JUDGEMENT BRIEFING.

1 WE CURRENTLY -- I BELIEVE THE BROWN PLAINTIFFS COMMITTED
2 TO A MARCH 1ST FILING DATE. I WOULD JUST ASK -- I THINK RIGHT
3 NOW, THE 24TH IS FINE. I KNOW THAT GOOGLE IS NOT CURRENTLY
4 PRESERVING ANYTHING, SO THIS IS NORMAL BUSINESS.

5 THE COURT: THAT IS NOT TRUE THAT THEY ARE NOT
6 PRESERVING ANYTHING, BUT I UNDERSTAND THESE TABLES ARE ON THE
7 ISSUE, I GOT IT. I GOT IT.

8 MR. MCGEE: YES.

9 THE COURT: I KNOW, EVERYONE WOULD LIKE THIS
10 RESOLVED, OBVIOUSLY PLAINTIFFS WOULD LIKE TO GET THIS RESOLVED,
11 SO IF YOU NEED IT, IT'S THERE. GOOGLE WOULD LIKE TO BE
12 RELIEVED OF THE BURDEN.

13 I INDICATED PREVIOUSLY, YOU KNOW, THERE MAY BE A POSITION
14 HERE THAT INVOLVES COST SHARING, AND THAT IS ALL STILL VERY
15 MUCH IN THE MIX.

16 MR. MCGEE: YES, JUDGE.

17 I THINK WHAT I WAS JUST TRYING TO GET AT WAS I BELIEVE THE
18 24TH WILL BE FINE, THERE ARE OTHER MEMBERS OF MY TEAM, THERE
19 ARE CONSULTANTS THAT WE ARE WORKING WITH, I WOULD JUST ASK THAT
20 IF WE DO IDENTIFY ANY ISSUE, YOUR HONOR, WITH THE 24TH, THAT I
21 JUST BE GRANTED A TINY BIT OF LEEWAY IN COMMITTING TO IT RIGHT
22 NOW, BUT I DO BELIEVE THAT WE CAN PROVIDE THE COURT WITH THE
23 UPDATE ON THE 24TH.

24 THE COURT: OKAY. I AM GOING TO SET THAT DATE. AND
25 YOU HAVE ALL BEEN THROUGH, YOU'VE ALL HAD BRIEFING ARMAGEDDON

1 IN THIS CASE, IN FRONT OF EITHER ME, OR JUDGE GONZALEZ ROGERS,
2 AND I WOULD EXPECT THAT YOU WOULD MEET AND CONFER AND AGREE TO
3 SOME MODEST ADJUSTMENT, IF NEEDED.

4 AND IT'S OKAY WITH ME, BUT I KNOW THERE ARE STRONG
5 INTERESTS ON BOTH SIDES TO KEEP THIS MOVING, BUT I ALSO WANT AN
6 OPPORTUNITY, I WANT TO GIVE GOOGLE ITS OPPORTUNITY TO RESPOND,
7 AND I WANT TO HEAR, BUT I DON'T NEED RE-VISITING OF ALL THE
8 ISSUES. I'VE GOT THEM. I'VE GOT THEM. I'M ON IT. SO NOT
9 MORE THAN FIVE PAGES WITH REGARDS TO THE RESPONSE, THE
10 QUESTIONS AND THE RESPONSE.

11 WITH REGARDS TO GOOGLE'S OFFER IN THE JANUARY -- THE
12 FOLLOW-UP LETTER, WHAT DID I SAY THAT WAS, JANUARY 28TH LETTER
13 WITH REGARDS TO THE ADDITIONAL DATA, IS IT THE BROWN POSITION
14 WE JUST DON'T -- YOU JUST DON'T NEED THAT, THAT'S NOT ADDITIVE,
15 AS PROPOSED?

16 MR. MCGEE: AS PROPOSED, YES, JUDGE.

17 IF GOOGLE WERE GOING TO PRODUCE THE ENTRY FROM THE ACTUAL
18 TABLE ITSELF, TO SHOW WHAT THE ADDITION LOOKS LIKE, I CAN
19 CERTAINLY SPEAK WITH OUR CONSULTANTS, BUT MY REVIEW OF THE
20 E-MAILS WAS THAT WOULD HAVE BEEN HELPFUL. BUT THE --

21 THE COURT: I UNDERSTAND.

22 MR. MCGEE: YES, JUDGE.

23 THE COURT: THANK YOU, MR. MCGEE.

24 AND MS. TREBICKA, I UNDERSTOOD YOUR RESPONSE TO THAT TO BE
25 THAT YOU ARE SHOWING WHAT'S THERE, AND TO FIND THE ACTUAL ID IN

1 THE TABLE WOULD BE BURDENSOME, DID I GET THAT CORRECT?

2 MS. TREBICKA: YOUR HONOR, YOU HEARD IT VERY
3 CORRECTLY. WE CAN CERTAINLY TRY, IF THAT WILL LAY THE ISSUE TO
4 REST.

5 THE COURT: WELL, I THINK IT'S -- CAN THAT BE
6 INCLUDED IN THE PROPOSAL, AND THEN DOES THAT -- WITH THAT
7 INFORMATION, WITH THAT SAMPLING OR THAT DEMONSTRATION, I THINK
8 IS YOUR QUESTION, IF YOU PROVIDE THAT, THEN DOES THAT SATISFY
9 THE BROWN PLAINTIFFS?

10 MR. MCGEE, WE ARE TALKING ABOUT THE MISSING C PART OF
11 THE -- AND I KNOW YOU HAD THIS DISCUSSION IN THE MEET AND
12 CONFER, THAT YOU DECIDED WAS A COMMUNICATIVE PROPERTY OR
13 TRANSFER, OR WHATEVER IT WAS.

14 MR. MCGEE: SOMETHING LIKE THAT.

15 THE COURT: WE ALL NEED TO GO BACK TO ALGEBRA, IT'S
16 GOOD FOR US.

17 MR. MCGEE: YEAH.

18 THE COURT: BUT THAT'S THE -- THAT'S GOOGLE'S INQUIRY
19 AS WELL. IF WE MAKE THAT EFFORT, IF WE CAN FIND THAT ID, WILL
20 THAT DEMONSTRATION BE SUFFICIENT?

21 MR. MCGEE: I THINK IT MOVES IN THAT DIRECTION,
22 YOUR HONOR.

23 I WOULD JUST HAVE TO SPEAK WITH THE CONSULTANTS ON THIS,
24 THIS IS GETTING ABOVE MY ECONOMICS DEGREE AND MY UNDERGRADUATE
25 STUDIES.

1 THE COURT: OKAY. WELL WHY DON'T YOU ASK THAT
2 QUESTION AND LET GOOGLE KNOW BY THE END OF THE WEEK.

3 MR. MCGEE: SENDING THE E-MAIL NOW, JUDGE.

4 THE COURT: YEAH.

5 AND IF IT DOES, GREAT. THEN MS. TREBICKA, GOOGLE CAN MAKE
6 THAT EFFORT AND PROVIDE IT AND THEN THIS ISSUE IS TUCKED IN AND
7 PUT AWAY.

8 AND IF IT DOESN'T, THEN, YOU KNOW, IF THAT WON'T PUT IT TO
9 REST, THEN YOU DON'T HAVE TO MAKE THE EFFORT AND I WILL FIGURE
10 OUT NEXT STEPS AS I CONTINUE TO WORK THROUGH THIS. ALL RIGHT?

11 OKAY. I DO NOT WANT TO, AND WE WILL NOT BE PERPETUALLY
12 KICKING THE CAN DOWN THE ROAD, THIS PROCESS WILL COME TO AN
13 END. SO AGAIN, THAT'S WHY I WANT TO GET THIS WRAPPED UP HERE
14 IN THE COMING WEEKS. AND I WILL MAKE A DECISION.

15 MR. BARNES, YOUR HAND?

16 MR. BARNES: MAY I RAISE AN ISSUE ON WHICH I THINK
17 EVERYONE WILL AGREE? AT THE LAST HEARING, I THINK YOU ORDERED
18 FROM THE BENCH THAT THE TRANSCRIPTS BE RELEASED TO THE PARTIES
19 PENDING REDACTION BRIEFING, WHICH SPARED US FROM HAVING TO FILE
20 A MOTION WITH THE COURT REQUESTING RELEASE OF THE TRANSCRIPTS.

21 IF YOU COULD DO SO AGAIN TODAY, I THINK THAT WOULD BE VERY
22 HELPFUL TO ALL OF US.

23 THE COURT: I WILL. YOU DO HAVE TO ORDER THE
24 TRANSCRIPTS. THESE WILL HAVE TO BE TRANSCRIBED FROM OUR
25 RECORDING, BUT SO ORDERED, THAT THE TRANSCRIPTS WILL BE

1 RELEASED TO THE PARTIES UPON REQUEST.

2 MR. BARNES: THANK YOU, YOUR HONOR.

3 THE COURT: ALL RIGHT.

4 MR. MCGEE: THANK YOU.

5 THE COURT: OKAY.

6 ANYTHING FURTHER FOR THE COURT TODAY? FROM GOOGLE,
7 MS. TREBICKA OR MS. GAO? I DID NOT MEAN TO OVERLOOK YOU. I
8 MAY HAVE LOST HER.

9 MS. TREBICKA: NOTHING FROM GOOGLE, YOUR HONOR.

10 THE COURT: ALL RIGHT. THANK YOU. THANK YOU FOR
11 YOUR PREPARATION AND GUIDANCE. VERY HELPFUL.

12 AND FROM CALHOUN, MR. MCGEE?

13 MR. MCGEE: NOTHING FURTHER, JUDGE.

14 THE COURT: MR. BARNES?

15 MR. BARNES: NOTHING FROM US, YOUR HONOR. THANK YOU.

16 THE COURT: OKAY.

17 ALL RIGHT. THANK YOU VERY MUCH. AND WE WILL -- I WILL
18 LOOK AT THAT ADDITIONAL INFORMATION. IF I HAVE SUBSTANTIVE
19 QUESTIONS, I WILL CALL YOU BACK IN, OTHERWISE I WILL -- WE WILL
20 GET THIS TAKEN CARE OF.

21 ALL RIGHT. THANK YOU. WE ARE ADJOURNED.

22 MS. TREBICKA: THANK YOU, YOUR HONOR.

23 MR. MCGEE: THANK YOU, YOUR HONOR.

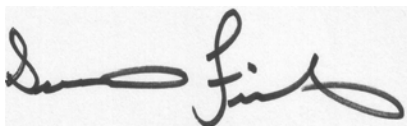
24 (THE PROCEEDINGS WERE CONCLUDED AT 11:00 A.M.)

25

CERTIFICATE OF REPORTER

I, THE UNDERSIGNED OFFICIAL COURT
REPORTER OF THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF CALIFORNIA, 280 SOUTH
FIRST STREET, SAN JOSE, CALIFORNIA, DO HEREBY
CERTIFY:

THAT THE FOREGOING TRANSCRIPT,
CERTIFICATE INCLUSIVE, CONSTITUTES A TRUE, FULL AND
CORRECT TRANSCRIPT OF MY SHORTHAND NOTES TAKEN AS
SUCH OFFICIAL COURT REPORTER OF THE PROCEEDINGS
HEREINBEFORE ENTITLED AND REDUCED BY COMPUTER-AIDED
TRANSCRIPTION TO THE BEST OF MY ABILITY.

A handwritten signature in black ink, appearing to read "Summer A. Fisher", is written over a light gray rectangular background.

SUMMER A. FISHER, CSR, CRR
CERTIFICATE NUMBER 13185

DATED: 2/16/23